

# **Making the Links in Family Violence Cases: Collaboration among the Family, Child Protection and Criminal Justice Systems**

## **VOLUME II**

Annexes to the  
Report of the Federal-Provincial-Territorial (FPT)  
Ad Hoc Working Group on Family Violence

November, 2013

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## ANNEX 1: Family violence statistics

### 1. What do we know about the prevalence of family violence in Canada?

There are three main sources of information used to measure family violence in Canada: self-reported victimization data from the General Social Survey (GSS) on Victimization,<sup>1</sup> police-reported information from the annual Uniform Crime Reporting (UCR) Survey and the Homicide Survey, and child protection reported information from the Canadian Incidence Study of Reported Child Abuse and Neglect (CIS). The following statistics provide an overview of what we know about family violence in Canada.<sup>2</sup>

#### 1.1 Family violence – general

- According to police-reported data in 2011 there were almost 95,000 victims of family violence in Canada who reported to the police, accounting for one quarter of all victims of police-reported violent crime. Almost half (49%) of family violence victims were victims of spousal and ex-spousal violence while the other half (51%) were children, siblings or extended family members.
- According to police-reported data in 2010, victims of family violence were more likely (46%) to sustain injury as a result of the violence than victims of non-family violence (41%).
- In 2011, 69% of the victims of police-reported family violence were women or girls. Women accounted for 80% of all police-reported spousal violence victims.

<sup>1</sup> The GSS on Victimization is conducted every five years; the last cycle took place in 2009. The GSS on victimization does not capture defensive spousal violence and therefore some of the reports of violence perpetrated against the respondents may in fact have been acts of self-defence. Data points which should be interpreted with caution are noted with an “E”.

<sup>2</sup> Unless otherwise indicated, all references in this section come from: Statistics Canada, *Family violence in Canada: A statistical profile, 2011*, Juristat, June 2013, Catalogue no. 85-002-X, at 7, online: <<http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11805-eng.pdf>> [Statistics Canada, “Family violence in Canada 2011”]; Statistics Canada, *Family violence in Canada: A statistical profile, 2010*, Juristat, May 2012, Catalogue no. 85-002-X, online: <<http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11643-eng.pdf>> [Statistics Canada, “Family violence in Canada 2010”]; and Statistics Canada, *Family violence in Canada: A statistical profile 2009*, Canadian Centre for Justice Statistics, Catalogue no. 85-224-X, online: <<http://www.statcan.gc.ca/pub/85-224-x/85-224-x2010000-eng.htm>> [Statistics Canada, “Family violence in Canada 2009”]. It has been suggested that large scale victimization surveys by and large tend to capture situational couple violence, which accounts for the reports of gender symmetry in terms of who initiates and participates in the violence. In contrast, samples which come from shelters, police reports, and emergency rooms, are more likely to represent coercive controlling violence, which explains the fact that the violence captured in these surveys is largely perpetrated by men against women and is more likely to cause injuries to women. See for example Michael P Johnson, *A Typology of Domestic Violence: Intimate Terrorism, Violent Resistance, and Situational Couple Violence*, (Lebanon, NH: Northeastern University Press, 2008). See also Mary Allen, “Is There Gender Symmetry in Intimate Partner Violence?” (2010) 16:3 Child & Family Social Work 245.

- In 2011, 56% of family violence incidents resulted in charges being laid or recommended. Charges were more commonly laid in cases where the victim was female than when the victim was male (61% versus 46%).

## 1.2 Spousal violence

- According to the 2009 GSS on victimization, 6% of individuals with a current or former spouse reported being physically or sexually victimized by their spouse in the preceding five years; 2% reported experiencing victimization in the previous year.
- The proportion of Canadians who have experienced spousal violence is higher for individuals with ex-spouses or partners, than current spouses or partners. In 2009, 17% of Canadians who had been in contact with an ex-marital or common-law partner in the previous 5 years had been physically or sexually assaulted by them during that period; 4% of Canadians with a current spouse or partner experienced violence by their current spouse or partner during that same time period.
- Data from the 2009 GSS reveal that among those who reported experiencing violence by an ex-spouse in the past five years,<sup>3</sup> 14% indicated that they experienced violence both while living together and after the separation; 32% reported that they experienced violence after separation; and over two thirds (68%) indicated that the violence ended once they separated from their spouse/partner.<sup>4</sup>
- Overall, women report more serious forms of violence than men. In 2009, three times as many women who reported current spousal violence indicated that they had been sexually assaulted, beaten, choked or threatened with a gun or a knife by their partner in the previous five years (34% of women and 10% of men). A higher percentage of women (54%) than men (27%)<sup>E</sup> who experienced violence after separation indicated that they were physically injured as a result of the violence.<sup>5</sup> Almost half (48%) of women reported fearing for their lives as a result of the post-separation violence.<sup>6</sup>
- The socio-demographic characteristics of victims of spousal violence are related to rates of violence over a five year period: those who identified in the GSS as gay or lesbian were twice as likely as those identifying as heterosexual to report having experienced

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<sup>3</sup> Note that in this report, data based on the 2009 GSS that refers to ex-spousal violence or violence that occurred after separation includes those who had had been in contact with an ex-spouse/partner in the previous five years and who had experienced physical or sexual violence by an ex-spouse/partner in that timeframe.

<sup>4</sup> Statistics Canada, Canadian Centre for Justice Statistics (CCJS), *General Social Survey (GSS)*. Special data request, July 2013.

<sup>5</sup> Statistics Canada, Canadian Centre for Justice Statistics (CCJS), *General Social Survey (GSS)*. Special data request, August 2012.

<sup>6</sup> Note that the number of males reporting fear for their lives due to post-separation violence was too low to produce statistically reliable estimates. Statistics Canada, Canadian Centre for Justice Statistics (CCJS), *General Social Survey (GSS)*. Special data request, August 2012.

spousal violence and 8% of those who reported having an activity limitation (a physical or mental condition limiting daily activities) experienced spousal violence, in comparison to 6% of those who did not have such a limitation. In contrast, those who identified themselves as visible minorities or immigrants did not have increased rates of spousal violence.<sup>7</sup>

- Aboriginal women, in particular, were at greater risk than non-Aboriginal women of being victims of spousal violence. About 15% of Aboriginal women who had a spouse or common-law partner in the past five years reported being a victim of spousal violence, more than twice the proportion among non-Aboriginal women (6%).<sup>8</sup>
- Not only were Aboriginal people more likely than non-Aboriginal people to be physically or sexually assaulted by a spouse or partner (current or former), they were also more likely to report having been victimized multiple times. More than half (59%) of Aboriginal victims of spousal violence reported being victimized more than once in the past five years and 50% reported being victimized more than three times. In comparison, 43% of non-Aboriginal victims reported being victimized more than once and 29% more than three times.
- Less than one quarter of spousal violence victims report the violence to the police. In 2009, 22% of spousal violence victims indicated that police found out about the incident; this is in contrast to 28% in 2004. The decrease in reporting came primarily from women. Also in 2009, the majority of incidents of ex-spousal violence were not reported to the police – with just over one third (36%) of respondents reporting that the police became aware of the incident either through themselves or another way.<sup>9</sup>
- In 2009, 10% of victims of spousal violence obtained a restraining or protective order against their abuser.
- Almost two thirds of spousal violence victims (63%) had been victimized more than once prior to calling the police and almost half of these victims (28%) stated they had been victimized more than ten times before contacting police.

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<sup>7</sup> It should be noted, however, that the GSS is conducted only in English or French and that research suggests that family violence in immigrant/refugee communities is a concern because immigrant and visible minority women who experience abuse from their partners are less likely to report it to the police and are often hesitant to use available support services, or be aware that they exist. See Canadian Council on Social Development, *Nowhere to Turn? Responding to Partner Violence Against Immigrant and Visible Minority Women* (Ottawa: 2008) at 34.

<sup>8</sup> Statistics Canada, *Violent Victimization of Aboriginal women in the Canadian Provinces, 2009* by Shannon Brennan, Juristat, May 2011, Catalogue no 85-002-X, online: <<http://www.statcan.gc.ca/pub/85-002-x/2011001/article/11439-eng.pdf>>.

<sup>9</sup> Statistics Canada, Canadian Centre for Justice Statistics (CCJS), *General Social Survey (GSS)*. Special data request, August 2012.

- Statistics from British Columbia provide a snapshot about what happens in that province in criminal cases where charges are laid. Over the decade spanning 2002/03 – 2011/12, the conviction rate for charges submitted by the police and approved by the Crown is 49%; in non-domestic violence cases, 70% of charges result in a conviction. Stays of proceedings are also 11% higher than in non-domestic violence cases. In cases in which a trial date is not set, there is a higher rate of peace bonds and a lower rate of stays, more consistent with non-domestic violence cases. This suggests that domestic violence trials end with stays more frequently than non-domestic violence cases.<sup>10</sup>

### 1.3 Family violence against children and youth

- Police-reported data indicates that in 2011, just over 18,300 children or youth under 18 years of age were victims of family violence. This represents about one quarter of all violent offences committed against children and youth.
- In 2011, the police-reported rate of family violence against girls was 56% higher than boys. Girls were four times more likely to be a victim of a sexual assault or other sexual offence committed by a family member.
- In 2011, police laid or recommended charges in 44% of incidents of family violence against children and youth, whereas charges were laid in 59% of family violence incidents against adult victims.

### 1.4 Witnessing spousal violence

- Results from the GSS indicate that between 2004 and 2009, there was an increase in the proportion of spousal violence victims reporting that children saw or heard the assaults (from 43% to 52%).
- According to the 2009 GSS, the exposure of children to spousal violence was most prevalent when the spousal violence victim was female or was estranged from their legal or common-law spouse. Parents were also four times more likely to involve the police when a child witnessed the spousal violence incident than when children were not present (39% versus 10%).

### 1.5 Homicide

- Between 2001 and 2011, family members accounted for 34% of all solved homicides. The rate of family homicides has been declining over the past thirty years, with a rate in 2011 that was 47% lower than in 1981.

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<sup>10</sup> British Columbia Justice Reform Initiative, *A Criminal Justice System for the 21<sup>st</sup> Century, Final Report to the Minister of Justice and Attorney General Honourable Shirley Bond*, 2012 at 144, online: <http://www.ag.gov.bc.ca/justice-reform/pdf/CowperFinalReport.pdf>.



- In 2011, there were 89 victims of intimate partner homicide in Canada, which includes current or former married, common-law and same-sex spouses, as well as those in a dating relationship.<sup>11</sup> Between 2001 and 2010, the average number of victims of intimate partner homicide was 95. Indeed, the rate of intimate partner homicide was 24% lower in 2011 than it was in 2001.<sup>12</sup>
- Female victims account for the majority of spousal homicide victims. In 2011, the rate of female victims of intimate partner homicide increased by 19%, the third increase in three years. In contrast, the rate for male victims of intimate partner homicide in 2011 was the lowest recorded since data collection began (0.08 per 100,000 males).<sup>13</sup>
- In 2011, 36% of intimate partner homicides were committed by current and former common-law spouses, 36% were committed by a legal spouse and 26% were committed by other intimate partners. A woman's risk of intimate partner homicide was highest after separation. From 2007 to 2011, a woman's risk of being killed by a legally separated spouse was nearly six times higher than the risk from a legally married spouse.<sup>14</sup>
- Almost half (44%) of those accused of family-related homicide in 2011 had a history of family violence with the victim.<sup>15</sup>
- Between 1994 and 2005, just under one-fifth (22%) of those accused of killing or attempting to kill their spouse had come into contact with the police between one to three times for spousal violence offences.<sup>16</sup>
- Between 1997 and 2005, 26% of the 687 spousal homicides (not including dating relationships) resulted in the suicide of the accused.<sup>17</sup>
- Between 2001 and 2011, 77% of murder-suicides involved at least one victim that was related to the accused. Over the same time period, the most prevalent type of murder-suicides involved a male killing his current or former legal or common law spouse (54%). Narratives on police files indicate that separation was a common theme in murder-

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<sup>11</sup> Statistics Canada, *Homicide in Canada, 2011* by Samuel Perreault, Canadian Centre for Justice Statistics, Juristat, December 2012, catalogue no. 85-002-X, online: <<http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11738-eng.pdf>>.

<sup>12</sup> Statistics Canada, "Family violence in Canada 2011", *supra* note 2.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> Statistics Canada, *Family violence in Canada: A Statistical Profile, 2007*, edited by Lucie Ogrodnik, Canadian Centre for Justice Statistics, October 2007, catalogue no. 85-224-XIE, online: <<http://www.statcan.gc.ca/pub/85-224-x/85-224-x2007000-eng.pdf>>.

<sup>17</sup> *Ibid.*

suicides. Half of the spousal narratives indicated that the couple had either separated, were in the process of separating or had expressed a desire to separate.<sup>18</sup>

- 72% of all domestic homicides in Ontario reviewed from 2003-2011 by the Ontario Domestic Violence Death Review Committee, involved perpetrators and victims who had already separated or who were in the midst of a separation; separation was thus the most common risk factor identified.<sup>19</sup>

## 1.6 Impacts of family violence

- According to the 2009 GSS, 3 in 10 victims of spousal violence reported being physically injured as a result of family violence; women were more than twice as likely as men to report an injury, with 42% of women reporting an injury and 18% of men. Of those individuals who reported an injury, 13% indicated that they were hospitalized as a result of the violence.
- In addition to physical injuries, more than three quarters reported being emotionally impacted by the violence. The most common reactions were feeling upset, confused or frustrated; other reactions were to feel angry, hurt, disappointed, fearful or depressed.
- Some victims of spousal violence indicated that the violence resulted in disruptions to their daily lives, and 18% of victims stated that they had to take time away or time off from their daily activities as a result of the violence. Women were three times more likely than men to report this.
- According to a recent study of the economic costs of spousal violence in Canada, the total economic impact of spousal violence in 2009 was \$7.4 billion, amounting to \$220 per capita.<sup>20</sup> The justice system bore 7.3% (\$545.2 million) of the total economic impact, where \$320.1 million was borne by the criminal justice system and \$225.1 million was borne by the civil justice system. A breakdown of the total criminal justice system costs by specific cost items reveals that policing services accounted for the majority of expenditures (45.5%), followed by corrections (31.7%), courts (9.5%), prosecutions (7.9%), and legal aid (5.5%). For civil justice system costs, 80.8% was attributed to child protection systems, 18.2% to separations and divorces, and 1.0% to civil protection orders.

<sup>18</sup> Statistics Canada, "Family violence in Canada 2011", *supra* note 2.

<sup>19</sup> Office of the Chief Coroner of Ontario, *2011 Annual Report of the Domestic Violence Death Review Committee* (Toronto: September 2012), at 8, 15, online: <http://www.mcscs.jus.gov.on.ca/stellent/groups/public/@mcscs/@www/@com/documents/webasset/ec160943.pdf>.

<sup>20</sup> Department of Justice Canada, *An Estimation of the Economic Impact of Spousal Violence in Canada, 2009* by Ting Zhang et al (Ottawa: Justice Canada, 2012), online: [http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr12\\_7/rr12\\_7.pdf](http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr12_7/rr12_7.pdf).

- The most direct economic impact is borne by primary victims. Of the total estimated costs, \$6.0 billion was incurred by victims as a direct result of spousal violence for items such as medical attention, hospitalizations, lost wages, missed school days, and stolen/damaged property. The intangible costs of pain and suffering and loss of life accounted for 91.2% of the total victim costs. Of the remaining tangible costs (\$525.0 million), other personal costs, including legal costs for divorce and separation, and moving expenses, represented 51.7%, followed by costs associated with mental health issues (34.2%), productivity losses (10.2%), and health care costs (4.0%). The impact of spousal violence ultimately extends to every member of society. The total economic impact borne by third parties and others was about \$889.9 million, including funeral expenses (\$1.4 million), loss of affection to family members (\$37.2 million), costs to other people who were hurt or threatened in the incidents (\$11.2 million), social service operating costs (\$410.6 million), losses to employers (\$77.9 million), the negative impact on children exposed to spousal violence (\$235.2 million), and additional government expenditures (\$116.3 million) not already included elsewhere (note that much government funding goes toward providing victim services, running shelters and transition homes, operating national crime prevention strategies, etc., many of which are estimated as separate cost items).<sup>21</sup>

## 2. What do we know about the prevalence of reported child protection cases?

The *Canadian Incidence Study of Reported Child Abuse and Neglect* (CIS) is a national study that estimates the extent of reported child abuse in Canada based on data from child welfare authorities. The CIS 2008 is the third CIS study conducted at the national level. The results provide key data on the incidence of reported child maltreatment and the characteristics of the children and families investigated by Canadian child welfare services. During the fall of 2008, the CIS 2008 tracked 15,980 child maltreatment investigations conducted using a representative sample of 112 child welfare service areas across Canada.<sup>22</sup> The CIS indicates as follows:

- Of the estimated 235,842 child-maltreatment-related investigations in Canada in 2008, 74% related to incidents of abuse or neglect that allegedly had already occurred and 26% concerned a risk of future maltreatment. In 2008, 36% of investigations were substantiated,<sup>23</sup> 30% were unfounded, 8% found insufficient evidence but kept the files open, 5% found there was a risk of future maltreatment, 17% found no future risk of maltreatment and 4% were inconclusive. In 2008, there were placements in 8% of investigations, and no placements in 92% of investigations. However, even where there was no placement, ongoing services were provided in 27% of the investigations in 2008.

<sup>21</sup> *Ibid.*

<sup>22</sup> Public Health Agency of Canada, *Canadian Incidence Study of Reported Child Abuse and Neglect – 2008: Major Findings* (Ottawa: Minister of Public Works and Government Services Canada, 2010), online: <http://www.phac-aspc.gc.ca/cm-vee/csca-ecve/2008/index-eng.php>

<sup>23</sup> A maltreatment investigation is “substantiated” when the balance of evidence indicates that abuse or neglect has occurred, *ibid* at 24.

- With respect to child abuse reported to child welfare authorities in Canada, the two most common categories of substantiated maltreatment in 2008 were exposure to intimate partner violence (34%) and neglect (34%) as the primary category of maltreatment. Physical abuse was the primary form of maltreatment in 20% of substantiated investigations in 2008, emotional maltreatment accounted for 9% and sexual abuse was the principal concern in 3% of substantiated cases.
- Physical harm was identified in 8% of the substantiated maltreatment cases in 2008 (harm was noted but did not require treatment in 5% of the cases and was sufficiently severe to require medical treatment in 3% of the cases). Information on emotional harm was also gathered in 2008: emotional harm was noted in 29% of substantiated cases and in 17% of the cases the harm was severe enough to require treatment.
- In 46% of substantiated investigations in 2008, at least one child functioning issue was indicated in relation to physical, emotional, cognitive and behavioural characteristics. Academic difficulties were the most frequent functioning concern (occurring in 23% of substantiated cases), depression, anxiety and withdrawal was the second most common concern (19%), child aggression was raised in 15%, attachment issues in 14%, Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD) appeared in 11% and intellectual or developmental disabilities arose in another 11% of cases.
- Aboriginal children are over-represented in the foster care system, and the rate of substantiated child maltreatment investigations is four times higher for Aboriginal children than for non-Aboriginal children. The CIS indicated that 22% of substantiated cases (an estimated 18,510 investigations) involved children of Aboriginal heritage in 2008 (15% Status First Nations, 3% non-status First Nation, 2% Métis 1% Inuit and 1% other Aboriginal heritage).

### 3. What do we know about family violence in the context of the family justice system?

Although much is known about family violence in the criminal and child protection contexts, less robust information is available with respect to the family justice system. The available statistics indicate as follows:

- Every year in Canada, a significant number of couples decide to separate. The 2006 General Social Survey shows that between 2001 and 2006, just fewer than two million Canadians ended a common-law or marital union – either through separation or divorce.<sup>24</sup>

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<sup>24</sup> Statistics Canada, *Navigating Family Transitions: Evidence from the General Social Survey, 2006* by Pascale Beaupré and Elisabeth Cloutier, June 2007, catalogue no. 89-625-XIE at 18, online: <http://www.statcan.gc.ca/pub/89-625-x/89-625-x2007002-eng.pdf>.

- In 2008, the proportion of married couples who were expected to divorce before their 30<sup>th</sup> wedding anniversary was 40.7%, up from 37.9% in 2004.<sup>25</sup>
- According to the 2006 GSS, approximately 4 in 10 separating or divorcing couples had dependent children when they ended their relationship.<sup>26</sup> Sixty-two percent (62%) of those who separated or divorced between 2001 and 2006 had agreements for the amount of time children would spend with each parent. Roughly the same number (61%) had agreements setting out how parents would make major decisions for their children.<sup>27</sup>
- Custodial outcomes for divorcing parents from 2010-2012, from selected courts in Canada reveal<sup>28</sup>:
  - *Physical custody (where the child resides)* – in 62.2 % of cases, children resided primarily with their mothers, in 9.4 % of cases primarily with their fathers, in 21.3% of cases there was a shared custody arrangement, whereby the child would live with each parent at least 40% of the time, and in 5.0% of cases there was a split custody arrangement whereby at least one child resided with each parent.
  - *Legal Custody (who makes major decisions with respect to the child)* – in 74.8% of cases there was a joint custody arrangement whereby both parents would make the major decisions together. In 19.5% of cases the mother had sole responsibility to make major decisions and in 2.9% of cases the father had the sole responsibility to make major decisions.
- Statistics derived from a review of court file data in selected courts indicates that family violence is mentioned in 8% of divorce cases.<sup>29</sup>
- Data from the 2009 GSS indicate that among respondents with a child or children with an ex-spouse/partner,<sup>30</sup> the respondent had experienced violence by an ex-spouse/partner in 29% of cases where the children resided primarily with the respondent. In 25% of cases in which a child's principal residence was that of the ex-spouse/partner, the respondent reported experiencing ex-spousal violence. Finally,

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<sup>25</sup> Statistics Canada, Canadian Vital Statistics, Divorce Database and Marriage Database, custom table: 101-6511.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid* at 24.

<sup>28</sup> Survey of Family Courts and Court File Review, internal analysis (Department of Justice Canada, April 2013). These figures are based on limited data, and as a result may not be representative of the entire population of divorced parents.

<sup>29</sup> Court File Review, internal analysis (Department of Justice Canada, April 2013). This data comes from a review of court files in selected courts, where the court made a final determination on custody issues between 2000 and 2005.

<sup>30</sup> Note that this would include a broader group of ex-couples than those divorcing. For example, former common-law partners would also be included here. In addition, the arrangements noted here could include court ordered arrangements, agreements between the parties, or an arrangement that had been implemented without explicit agreement between the parties.

where the child spent about the same amount of time in each house, the respondent experienced ex-spousal violence in 20% of cases.<sup>31</sup>

- Practices with respect to screening for family violence vary throughout the family justice system. According to a small scale survey of mediators conducted in 2007, the majority do screen for family violence (93%).<sup>32</sup> Lawyers may be less likely to screen for family violence on a systematic basis. In a survey of lawyers attending the National Family Law Program in 2010, 83% indicated that they never or rarely use a screening tool (e.g. standardized test) to identify cases of family violence.<sup>33</sup>
- The 2006 GSS indicates that 53% of Canadians who went through a separation or divorce between 2001-2006, at the time of the survey, had not contacted, or used a lawyer or duty counsel for themselves or their child(ren). This indicates that a large number of individuals who may have family law issues do not seek legal advice or representation. These individuals, however, may have used other family justice services to receive advice or resolve their issues.
- The 2006 GSS indicates that about three quarters (74.0%) of recently separated or divorced individuals with dependent children<sup>34</sup> used a formal service of some kind between 2001 and 2006, compared to less than half (44.7%) of those who separated or divorced without dependent children.

#### 4. What do we know about the incidence of parallel proceedings in family violence cases?

There is very little definitive Canadian information about the incidence of parallel family, child protection or criminal proceedings involving the same family. There is information from several sources, however, which gives us some sense of the scope of the issue:

- Data is available from an evaluation underway of the Integrated Domestic Violence Court in Toronto, Ontario (discussed in detail in Chapter 5, Volume I). In order to provide a comparison group of cases not heard in the Integrated Domestic Violence Court, the study examined court files from 2003-2010; there were 11,154 family files available onsite for review at the 311 Jarvis Street courthouse. Researchers examined every third file and found that, of these, there were 398 files where there was or had been a case in

<sup>31</sup> Department of Justice Canada, *Violence Perpetrated by Ex-Spouses in Canada* (forthcoming).

<sup>32</sup> Survey of Mediators, internal analysis (Department of Justice Canada, April 2013). These results are from a small survey of mediators and are not nationally representative.

<sup>33</sup> Department of Justice Canada, *Supporting Families Experiencing Separation and Divorce Initiative, Survey of the Practice of Family Law* (Ottawa: unpublished, 2010) [Justice Canada, "Supporting Families"].

<sup>34</sup> In the GSS 2006, a recently separated or divorced person was considered to have dependent children if they had any biological or adopted children with a former spouse or common-law partner and the children were under the age of 23 at the time of the survey. The survey coverage allowed for the inclusion of all parents whose children were under 18 at the time of separations and divorces occurring up to five years prior to the time of the survey.

the criminal domestic violence court. This means that approximately in 10.7% of family cases there was also a criminal proceeding in relation to domestic violence.

- Of lawyers surveyed in 2010 at the National Family Law Program, over one third (38%) indicated that in situations involving family violence, their clients often or always were also before the criminal courts while the family law proceeding is ongoing. Anecdotal reports from family law lawyers also indicate that this is an issue that arises in a significant number of cases.<sup>35</sup>
- Data from the Canadian Incidence Study of Reported Child Abuse and Neglect, provides information with respect to child maltreatment cases in 2008:<sup>36</sup>
  - There were 50,304 cases in which intimate partner violence was a primary, secondary or tertiary ground for a child maltreatment investigation. In 36% of these cases, charges were laid in the adult domestic violence case; this represents 18,010 cases where there was a child maltreatment investigation and a criminal proceeding.
  - Criminal charges were laid in 28% of cases in which there was also a maltreatment investigation and a child custody dispute; this represents 2,049 cases where a child protection worker reported that the criminal, family and child protection systems were all involved with the family.
  - In 6% of cases where there was a maltreatment-related investigation in respect of a youth aged 12-15, in the past six months the youth had also been charged, incarcerated or subject to alternative measures in the Youth Criminal Justice system.

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<sup>35</sup> Justice Canada, “*Supporting Families*”, *supra* note 33.

<sup>36</sup> Department of Justice Canada, *Malicious Referrals, Custody Disputes and Police Involvement in the Canadian Child Welfare System: Data Tables from the CIS2008* by Barbara Fallon et al (Ottawa: unpublished, 2013).

## ANNEX 2: Overview of justice system processes in family violence cases

This Annex provides an overview of the criminal (including youth) justice system, the child protection system, the family justice system and the process for obtaining civil protection orders.

### 2.1 The criminal justice system

Generally, references to the criminal justice system encompass the four independent institutions of the police, prosecutions, the criminal courts, and corrections,<sup>37</sup> which together apply the criminal law. The Supreme Court of Canada has held that the objective of the criminal law is to maintain a just, peaceful and safe society.<sup>38</sup> Such a society results when individuals feel that the state is protecting both their physical selves and their property at the same time as it is upholding their fundamental rights.

The criminal justice system is public in nature, and a crime is seen to be committed not solely against an individual, but against society or the state as a whole. A crime is thus prosecuted on behalf of the state. The Supreme Court has stated that:

... the ultimate purpose of criminal proceedings is to convict those found guilty beyond a reasonable doubt. Our system of criminal justice is based on the punishment of conduct that is contrary to the fundamental values of society, as statutorily enshrined in the *Criminal Code* and similar statutes.<sup>39</sup>

An individual who is accused of a criminal offence faces a potential deprivation of their liberty, a criminal record and the negative stigma associated with a criminal conviction should they be found guilty of the offence. Consequently, accused persons benefit from a range of *Charter* protections<sup>40</sup> which have a significant influence on the conduct of criminal investigations, proceedings and rules of evidence.

Responsibility for criminal law and criminal justice matters in Canada is divided between the federal and provincial/territorial governments. The Parliament of Canada is responsible for the criminal law, including the *Criminal Code*,<sup>41</sup> while responsibility for the administration of justice,

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<sup>37</sup> This report only incidentally covers issues related to corrections. Federal corrections apply where offenders are subject to a sentence of two years or more, while provincial corrections apply to sentences under two years.

<sup>38</sup> *R v M (C A)* (1996), [1996] 1 SCR 500, 105 CCC (3d) 327 at 376.

<sup>39</sup> *Cloutier v Langlois*, [1990] 1 SCR 158, 53 CCC (3d) 257 at 275.

<sup>40</sup> This includes the right to be free from unreasonable search and seizure and arbitrary detention during investigation (sections 8 and 9); the right to know why they have been detained and to obtain legal counsel (section 10), the right to a fair trial, including the presumption of innocence and the right to a trial in a reasonable time (sections 7 and 11).

<sup>41</sup> RSC 1985, c C-46.



including enforcement and prosecution of the criminal law, is primarily a matter of provincial/territorial jurisdiction.<sup>42</sup>

### 2.1.1 Process

The *Criminal Code* does not have a specific offence for family violence. Rather, a person alleged to have committed violence may be charged with any number of offences depending on the circumstances.

Upon receiving information that a crime may have been committed or is in the process of being committed, the police will begin a criminal investigation into the matter. The next step will be to assess the evidence gathered and determine whether there are reasonable grounds to believe that an offence has been committed and whether a charge can be laid. Any person can lay an information before a justice of the peace declaring that he or she has reasonable grounds to believe that an offence has been committed by the person subject to the charges (section 504). However, generally speaking, most often the information is laid by police (in some jurisdictions, a prosecutor is responsible for pre-approving the laying of the charge<sup>43</sup>). Once an information is endorsed by the Justice, the suspect becomes an accused charged with a criminal offence. At that point, the Justice decides whether to issue a summons or a warrant (section 507). Once a charge is laid, this indicates that the police have reasonable grounds to believe the person committed the offence, and it does commence the prosecution. The investigation, however, may very well continue, particularly if new information comes to light.

As noted in Chapter 3, Volume I, in response to concerns that spousal assaults were being treated as “private” matters and not processed with the same rigor as stranger assaults by some police and prosecutors, specific spousal abuse policies were introduced in all jurisdictions in Canada by the mid 1980’s. Although the pro-charge policies<sup>44</sup> differ among jurisdictions, they generally indicate that a charge should be laid where there are reasonable grounds to believe that an offence has been committed and, in jurisdictions with Crown pre-charge screening,<sup>45</sup> it is in the public interest to lay a charge.<sup>46</sup> The overall goal of the policies is to encourage

<sup>42</sup> *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, ss 91(27) and 92(14) reprinted in RSC 1985, App II, No 5; Federal law allows territories to elect councils with powers similar to those of the provincial legislatures.

<sup>43</sup> In British Columbia and Quebec the decision to lay charges rests with the Crown Prosecutor. In New Brunswick, the decision to lay charges rests with the police after receiving advice from the Crown.

<sup>44</sup> Alberta refers to “total enforcement” as opposed to “pro-charge” because the policy promotes total enforcement due to a history of inappropriate use of discretion in intimate partner violence cases.

<sup>45</sup> Justice Canada, *Spousal Abuse Policies and Legislation: Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation*, (Ottawa: Family, Children and Youth Section, 2003) at 11, online: <[http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/pol/spo\\_e-con\\_a.pdf](http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/pol/spo_e-con_a.pdf)>: Pre-charge approval or screening by the Crown prosecutor is required in British Columbia, New Brunswick and Quebec.

<sup>46</sup> *Ibid* at 21: In the case of Quebec, the Crown prosecutor’s decision to approve the laying of an information or an indictment must be preceded by a verification of the investigation report in light of two sets of criteria, namely, criteria related to the sufficiency of the evidence and criteria related to the feasibility of the prosecution. Effectively, the Crown prosecutor must, having examined all the evidence including possible defences, be personally convinced that an offence has occurred and that the offence was committed by the accused and be reasonably convinced of the Crown’s ability to establish the guilt of the accused.

reporting of spousal offences, to send a strong message that spousal assault is a crime, to offer protection and assistance to victims and ultimately to reduce the incidence of spousal violence.

If a charge is not proceeded with, the police will consider whether a section 810 recognizance is appropriate (see 2.1.2 below). Once a charge has been laid, the police then provide the evidence to the Crown. Crown prosecutors are not counsel for victims or the police. In every case, they are required to act independently, with fairness, be consistent, objective, impartial, and seek to avoid all conflicts of interest that might undermine independence. Prosecutors must serve the general public's interest, and seek to uphold the rule of law, and the integrity of the criminal justice system. Their duty is to ensure that a just verdict is reached at the end of the trial process and not strive for a conviction at all costs. In filling this role, the prosecutor must determine if the charge will proceed.<sup>47</sup> The first consideration in commencing or continuing a prosecution is the sufficiency of the evidence. A prosecution may only be commenced or continued if – and as long as – there is a reasonable likelihood of conviction when the known evidence as a whole is considered. If the evidence justifies the commencement or continuation of the proceedings, the Crown prosecutor should then consider whether the public interest requires a prosecution. Crown prosecutors must carefully balance the factors that favour a prosecution against the factors against such proceedings. Most jurisdictions will have a list of possible factors to consider which include: seriousness of the offence, harm to the victim and circumstances of the accused.

Where the accused has been arrested by the police, he or she may be either released, with or without conditions, or held in custody until a bail hearing takes place to determine if judicial interim release is warranted. The compelling appearance and judicial interim release (“bail”) provisions of the *Criminal Code* provide peace officers and judges with a wide range of powers to release or detain an accused person. Generally speaking however, an accused has the right not to be denied reasonable bail without just cause,<sup>48</sup> and peace officers or Crown prosecutors must justify why increasingly intrusive conditions, up to the point of detention are required.<sup>49</sup>

Currently, police officers can release an accused person and compel their attendance in court through various different forms of release (appearance notice, promise to appear, recognizance, undertaking, etc.). The form of release used is contingent on various circumstances: if the accused was arrested;<sup>50</sup> if the arrest is with or without a warrant; if the

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<sup>47</sup> Note however, that in British Columbia, New Brunswick and Quebec, the Crown will have made this determination before the charge is laid.

<sup>48</sup> *Charter*, s 11(e).

<sup>49</sup> Stephen Coughlan, *Criminal Procedure* (Toronto: Irwin Law, 2008) at 161-162.

<sup>50</sup> An arrest is understood to consist of the words of arrest accompanied by touching a person with a view to detention or by the individual submitting to the arrest (*R v Whitfield*, [1970] SCR 46). Arrests may be made with or without a warrant. An arrest warrant can only be issued once an information has been laid before a Justice setting out that there are reasonable grounds to believe that the individual in question has committed an offence (section 504 for indictable offence and section 795 for summary conviction offences). Arrests may also be made without a warrant pursuant to sections 494 and 495.

offence falls within a certain class of offences; and if the person authorizing the release is an “officer in charge” or an “arresting officer”.

An appearance notice and a promise to appear are similar to a summons, in both form and function.<sup>51</sup> They are release documents issued by the peace officer or the officer in charge. The summons is a written command issued by a Justice of the Peace, directed to the accused to appear in court at a particular time to face certain charge. The recognizance, like the undertaking, requires an accused to follow certain conditions.<sup>52</sup>

Form 11.1 of the *Criminal Code* sets out the conditions that may be placed on an individual by an officer or officer in charge, including conditions such as abstaining from:

- Communication, directly or indirectly, with a victim or other person (“no-contact” terms);
- Attending at certain specified locations, for example residence, place of employment, school (“no-go” terms);
- Possession of a firearm and to surrender firearms and any authorizations, licences, etc. to acquire or possess a firearm; and
- The consumption of alcohol, other intoxicating substances or drugs, except with prescription.

Where an accused person is arrested without a warrant, that person may, however, be detained where the arresting officer (section 497) or the officer in charge of the facility (section 498) believe that detention is required to:

- Establish the identity of the person;
- Secure or preserve evidence of or relating to the offence;
- Prevent the continuation or repetition of the offence or the commission of another offence; or
- Ensure the safety and security of any victim of or witness to the offence.

An officer may also detain a suspect where he or she has reason to believe that, if the person is released from custody, the person will fail to attend court.

At the first court appearance, the Crown prosecutor may consent to the accused’s release, with conditions, or oppose release.<sup>53</sup> Pursuant to section 515 of the *Criminal Code*, an accused will

<sup>51</sup> Gary T Trotter, *The Law of Bail in Canada*, 2nd ed (Toronto: Carswell, 1999) at 92-93: the appearance notice is issued by the peace officer when the suspect is not taken to a police station/detachment.

<sup>52</sup> A recognizance is distinctive because it carries a financial penalty if the conditions are not followed. The recognizance may or may not require a deposit of the pledged money. Once the appearance notice, promise to appear or recognizance has been confirmed by a Justice (section 508), a failure to comply with one of these forms of release is a criminal offence (section 145(5.1)).

<sup>53</sup> Joseph Di Luca, Erin Dann & Breese Davies, *Best Practices where there is Family Violence (Criminal Law Perspective)* (Department of Justice, unpublished, 2012) at 10. The authors also note that the accused will

be released pending trial unless the prosecutor “shows cause” why the detention of the accused is necessary.<sup>54</sup> Section 515 also provides that the accused can be released with an undertaking (with or without conditions) or with a recognizance (with or without sureties). The Crown can seek an accused’s detention on one of three grounds:

- 1) To ensure the accused’s attendance in court (“primary ground”);
- 2) For the protection and safety of the public (“secondary ground”); or
- 3) To maintain public confidence in the administration of justice (“tertiary ground”).

In situations of family violence, the secondary ground – protection of the safety of the public, and in particular that of the complainant, is of particular importance.<sup>55</sup>

The *Criminal Code* categorizes offences based on the seriousness of the offence. Some offences are straight summary conviction offences others are straight indictable offences, however most are hybrid, whereby the Crown has an election as to whether to proceed by way of summary conviction or indictment. Unless the *Criminal Code* indicates otherwise, summary conviction offences are punishable either by a fine of not more than \$5,000 or six months' imprisonment or both.<sup>56</sup> Several offences commonly used in the context of domestic violence are punishable by up to eighteen months if proceeded by way of summary conviction including assault causing bodily harm and uttering death threats. Indictable offences are generally considered more serious, carry lengthier maximum penalties and afford an accused person the right to a preliminary inquiry and jury trial.

Summary conviction offences are tried in provincial court and indictable offences may be tried in either superior or provincial court, depending on the nature of the offence and the mode of trial selected by the accused. Some offences, however, such as murder, fall under the exclusive jurisdiction of the superior court and a limited number of offences, listed at section 553 of the *Criminal Code*, may only be tried before a provincial court judge.

Since indictable offences involve greater potential repercussions for accused persons, greater procedural options are also available in these prosecutions. A preliminary inquiry may be held before the trial of an indictable offence to allow the parties to hear the evidence with respect to specific issues that have been identified in advance and to hear specified witnesses.<sup>57</sup>

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sometimes spend more time in custody if they are arrested on a weekend or require time to retain a lawyer or secure a surety.

<sup>54</sup> In certain situations specified in the *Criminal Code*, the onus is reversed and the accused must show cause why he or she should not be detained. For example, the onus will be on the accused where they are charged with failing to comply with a condition of a recognizance or undertaking, or if they have committed an indictable offence while they were on release for an earlier charge that is still pending (section 515(6)).

<sup>55</sup> See Tracey Vogel, “Family Law Concerns at the Initial Release/Bail Hearing: Crown Policy & Considerations” (presented at Crime in the Family: Navigating the Intersection between Criminal and Family Law, Part II: Criminal Focus, Ontario Bar Association, Toronto, May 5, 2007).

<sup>56</sup> *Criminal Code*, *supra* note 41, s 787.

<sup>57</sup> *Ibid*, s 536.3.

Normally, they are only held if the accused or the Crown request one.<sup>58</sup> At the end of the preliminary hearing, a trial date is set if the court is satisfied that there is sufficient evidence. Otherwise, the accused is discharged and the matter does not proceed further unless an appeal is undertaken or an indictment is preferred.

A judge may order a pre-trial hearing to consider matters that can be decided before the start of the proceedings in order to promote a fair and expeditious proceeding.<sup>59</sup> This is generally done on the request of the prosecutor or the accused but may also be ordered by the judge alone.

A major distinction between the family and criminal law systems is the burden of proof. In the criminal law system, the Crown must show that the evidence proves beyond a reasonable doubt that the accused is guilty of the charges. This high burden of proof is tied to the presumption of innocence.<sup>60</sup> In contrast, in the family law system, one side need only show that something has occurred based on a balance of probabilities. It is thus possible for a court in a family law matter to find that family violence has occurred on a balance of probabilities, yet for a criminal court to find on the same evidence that the offence in question has not been proven beyond a reasonable doubt.

Where the accused is found guilty, sentencing will occur. A victim may submit a victim impact statement to the court, which will be taken into consideration when the accused is sentenced. The *Criminal Code* states that the sentence is to contribute to respect for the law and the maintenance of a just, peaceful and safe society, and should accomplish one or more of the following objectives: denounce the criminal conduct; deter the offender and others; separate offenders from society when necessary; assist in rehabilitating the offender; provide reparation to the victim and the community; and give a sense of responsibility to the offender and acknowledgment of the harm done to victims and to the community.<sup>61</sup>

In sentencing, the court is required to consider as aggravating factors whether the offender abused a position of trust or authority in relation to the victim; whether the victim was under 18 years of age and/or whether the victim was in a marital or common law relationship with the offender.<sup>62</sup> All of these factors may be relevant in the context of family violence.

Sentences may include imprisonment, an intermittent sentence, a conditional sentence, a fine, a suspended sentence, probation, a restitution order, certain other types of prohibitions or orders (e.g. firearms prohibitions, orders to provide a DNA sample) or discharge (conditional or absolute). Conditions such as no contact or communication with the victim directly or indirectly

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<sup>58</sup> A preliminary inquiry will not be held if the offence is one listed in section 553 for which a provincial judge has absolute jurisdiction, or where the accused elects to be tried by a provincial court judge.

<sup>59</sup> *Criminal Code*, *supra* note 41, s 625.1.

<sup>60</sup> The right to be presumed innocent until proven guilty, historically recognized in Canadian criminal law, was codified in subsection 11(d) of the *Charter*.

<sup>61</sup> *Criminal Code*, *supra* note 41, s 718.

<sup>62</sup> *Ibid*, s 718.2.

can be imposed as part of the sentence, typically as part of a probation order. While alternative measures or diversion programmes are available in some provinces in the context of spousal abuse cases, in most jurisdictions, these cases are exempt.

### *2.1.2 Criminal protection orders*

The police and criminal courts are empowered to make orders pursuant to the *Criminal Code* that are meant to protect victims when charges relating to family violence have been laid. No-contact orders can be made during the interim release of the accused, pending trial or appeal, and as a condition of a probation or a conditional sentence order following conviction. Upon application by police and/or Crown prosecutors, the court can also issue an order under section 810 of the *Code*, which are preventative court orders requiring an individual to agree to specific conditions to keep the peace even if that person has not yet committed an offence or been arrested. These are known as peace bonds or recognizances. The criminal court also has a common law jurisdiction to be able to bind a person over to keep the peace.

### *2.1.3 The youth criminal justice system*

While the body of this report does not describe in detail the specific challenges related to collaboration between the youth criminal justice system and family/child protection systems, there are significant differences between the processes in the adult and youth criminal justice systems. A brief description of the youth criminal justice system is provided here.

When a young person who is at least 12 but less than 18 years of age is alleged to have committed an offence under federal law, the *Youth Criminal Justice Act*<sup>63</sup> (YCJA) applies. While many aspects of criminal procedure are similar in the youth and adult criminal justice systems, the YCJA establishes distinct legal principles, protections and options for dealing with youth who are alleged to have committed a criminal offence.

The YCJA recognizes that the youth justice system must be separate from the adult system and is based on the principle of diminished moral blameworthiness of youth. It emphasizes rehabilitation and reintegration, fair and proportionate responses to offending, enhanced procedural protections for youth and timely interventions.

The YCJA recognizes that young persons have special guarantees of their rights and freedoms, and it contains a number of significant legal safeguards to ensure that young people are treated fairly and that their rights are fully protected. For example, as a general rule, the privacy of youth who are dealt with under the Act is protected through publication bans on their identity and restrictions on access to youth records. Young people also have enhanced rights to counsel, including state-provided counsel, and the right to have parents or other appropriate adults present throughout key stages of the investigative and judicial process.

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<sup>63</sup> SC 2002, c 1.

Given that measures outside of the formal court process can often provide a more timely and effective response to youth offending, the YCJA encourages the use of extrajudicial measures in all cases in which they are adequate to hold a young person accountable. Section 4 of the Act states that extrajudicial measures are presumed to be adequate to hold a first-time, non-violent offender accountable and can be used even if a young person previously has been dealt with by extrajudicial measures or found guilty of an offence. Among other things, extrajudicial measures should be designed to encourage young persons to acknowledge and repair the harm caused to victims and encourage the involvement of families, victims and communities. The YCJA requires police officers to consider the use of extrajudicial measures before deciding to charge a young person, and police-reported statistics show that each year, more than 50% of “chargeable” youth cases are dealt with through means other than the laying of charges, such as through the use of warnings, cautions or referrals to community-based programs aimed at addressing the circumstances underlying offending behaviour.<sup>64</sup>

If a young person is charged, all proceedings take place in youth court, which is most often a provincial court, and the majority of cases proceed summarily. While proceedings take place in open court, the YCJA prohibits publication of information that would identify a young person who is dealt with under the Act or a young victim or witness of an offence committed by or alleged to have been committed by a young person.<sup>65</sup>

For the most part, the adult sentencing provisions set out in the *Criminal Code* do not apply to youth.<sup>66</sup> Instead, the YCJA contains a statement of purpose and principles of youth sentencing and establishes youth sentencing options. The Act requires that youth sentences be just sanctions that impose meaningful consequences for the young person and that promote their rehabilitation and reintegration into society. Sentences must be proportionate to the seriousness of the offence and the degree of responsibility of the young person. There are a broad range of community-based sentencing options and clear restrictions on the use of custodial sentences. In exceptional cases, a judge may decide to sentence a young person as an adult, in which case the adult sentencing provisions apply.

Before imposing a sentence, a judge may, and in some cases must, consider a pre-sentence report in respect of the young person. In addition, at any stage in the youth court proceedings, a judge may require that a medical, psychological or psychiatric report be prepared on the young person. A judge must also consider a victim impact statement if one has been filed with the court.

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<sup>64</sup> Statistics Canada, *Police-reported crime statistics in Canada, 2011* by Shannon Brennan, Juristat, July 2012, catalogue no. 85-002-X, online: <<http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11692-eng.pdf>>.

<sup>65</sup> For exceptions to the general rule against publication, see sections 110 and 111 of the *Youth Criminal Justice Act*, SC 2002, c 1.

<sup>66</sup> *Youth Criminal Justice Act*, SC 2002, c 1, s 50 provides that unless a youth is sentenced as an adult, Part XXIII (sentencing) of the *Criminal Code* does not apply except for certain sections, including s 718.2(e) (sentencing principle for aboriginal offenders) and sections 722 and 722.1 (victim impact statements).

The YCJA encourages the use of youth justice conferences. A conference refers to a group of people who are asked by a decision maker under the Act, such as a judge, to come together to give advice on a particular case. Conferences can take many forms, such as a family group conference, a youth justice committee, a sentencing circle, or a professional case conference. Participants in these conferences can include the young person, his or her parents, the victim, community agencies, and professionals with a particular expertise related to the case. While they are not decision-making bodies, conferences can provide advice and recommendations to decision makers on a variety of issues, including appropriate extrajudicial measures, conditions for release from pre-trial detention, and sentencing options.

Finally, the YCJA makes it clear that while measures taken should reflect the needs and individual circumstances of youth and promote rehabilitation, the needs or social welfare problems of a young person should not result in a longer or more severe penalty than what is fair and proportionate to the seriousness of the offence committed. The Act also contains a number of provisions that emphasize that the criminal justice system is not to be used as a substitute for more appropriate non-criminal justice system measures. For example, sections 29(1) and 39(5) of the YCJA state that neither pre-trial detention nor sentenced custody shall be used as a substitute for appropriate child protection, mental health or other social measures. Section 35 states that a youth justice court may, at any stage of proceedings against a young person, refer the young person to a child protection agency for assessment to determine whether the young person is in need of child protection services.

As already noted, as a general rule, the YCJA protects the privacy of young persons who are accused or found guilty of a crime by keeping their identity and other personal information confidential. In addition to the publication ban on a youth's identity, the YCJA establishes clear restrictions on access to youth records. It sets out who may access youth records, for what purposes, and for how long such records are to be accessible.

A record is anything that contains information created or kept for the purposes of the YCJA or for investigating an offence that could be prosecuted under the YCJA. For example, details about an arrest, charge or sentence, and information about the young person and/or an offence provided by family members, neighbours, school authorities and victims may form part of a youth record.

While the YCJA allows for the sharing of youth records in certain circumstances without a court order, in many cases access to records is allowed only if an order is made by a youth justice court judge. In addition, once an individual is given access to a youth record, further sharing of the information contained within that record is restricted by the YCJA.

## 2.2 The family justice system

The family justice or law system regulates the rights and responsibilities of family members upon the breakdown of the family unit. In particular, the family law system deals with matters



of separation, divorce, parenting arrangements for children, child and spousal support, and the division of family property and possession of the family home.<sup>67</sup>

In comparison to criminal law and child protection proceedings, family law involves the resolution of disputes between private parties and the proceedings are almost always initiated by the parents rather than by the state. As a result, litigants in family law proceedings do not benefit from the same *Charter* protections as accused persons in criminal proceedings or as, to a lesser extent, parents in child protection proceedings. There is, however, a public component to the family law system in the sense that society has an interest in ensuring that family law outcomes are in the best interests of children, and are fair.<sup>68</sup>

The federal *Divorce Act*<sup>69</sup> generally applies when divorcing parents need to settle child custody, access and support (child and spousal) issues. Provincial and territorial laws apply regarding child custody, access as well as support (child and spousal) when unmarried parents separate or when married parents separate and do not pursue a divorce, as well as to some issues in divorce proceedings (i.e. division of matrimonial property).<sup>70</sup> The provinces/territories also have jurisdiction over the administration of justice.

Depending on the province or territory, different levels of court may deal with different family matters. Superior courts can generally deal with all family law matters, and in particular can adjudicate issues related to divorce and property. In contrast, provincial courts may deal with issues such as parenting arrangements and support, but may not grant a divorce or deal with property issues. This can lead to confusion and frustration for litigants. As a response to this issue, several provinces have established unified family courts (UFCs), which permit all aspects of family law to be dealt with in a single court with specialized judges and services.<sup>71</sup>

The provinces and territories offer various family justice services, such as parent information sessions, to help support families through the process. For a list of the family justice services in

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<sup>67</sup> Child protection is also considered a family law matter, however for the purposes of this report, it is dealt with separately.

<sup>68</sup> Harvey Brownstone, *Tug of War: A Judge's Verdict on Separation, Custody Battles, and the Bitter Realities of Family Court* (Toronto: ECW Press, 2009) at 128.

<sup>69</sup> RSC 1985, c 3 (2nd supp).

<sup>70</sup> *Constitution Act*, *supra* note 42, ss 92(12) & 91(13).

<sup>71</sup> Department of Justice Canada, *The Unified Family Court Summative Evaluation Final Report* by the Office of Strategic Planning and Performance Management (Ottawa: March 2009), online: <<http://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/09/ufc-tuf/ufc.pdf>>. The evaluation found that the UFC model can facilitate coordination between the courts and family justice services, particularly where a formal intake or referral mechanism has been implemented. However, while referral and coordination functions were undertaken through various means (including informally), the evaluators found that the general disconnect between the case files maintained by family justice service providers and the court registry files made it very difficult to identify how parties proceeded through the family justice system. This limited the evaluators' ability to assess the impacts of the UFC model on outcomes for families involved in the justice system. The evaluation did provide evidence that suggests the UFC model helps to resolve issues more efficiently and enables better access to a specialized bench of judges and family justice services.

the province and territories, please see: <http://canada.justice.gc.ca/eng/pi/fcy-fea/lib-bib/tool-util/apps/fjis-rsgjf/brows-fure.asp>

Access to the family law courts can be an issue for claimants based on their ability to understand the process and/or to obtain information support or counsel generally. These access issues also arise because of cultural concerns regarding the manner in which family disputes are resolved. For example, Saskatchewan conducted research to try to identify the reasons behind the low level of Aboriginal clients accessing the family courts, except in relation to child protection matters. In focus group discussions, Aboriginal people stated that lack of resources was the main reason for not accessing the family justice system; however, there was also concern that the system was not culturally sensitive. Two examples were that the system did not sufficiently recognize the role of grandparents and extended family in the Aboriginal community and that child and spousal support processes were either not understood or commonly used.

### *2.2.1 Process*

A family law proceeding will normally begin because of a relationship breakdown; one or both of the parties then commence a legal proceeding.

Through court documents – which depending on the jurisdiction may have different names such as petition, application, statement of claim, and statement of defence or response – the parties will set out their positions on issues such as the reasons for the divorce, the need for support, the appropriate parenting arrangements for the child (custody and access), as well as other issues such as the need for restraining orders. Various pre-trial procedures will follow, and may differ slightly depending on the province or territory. Parties will be required to exchange information related to the financial claims that they are making as well as with respect to care of the children.

Some jurisdictions have case management systems which are intended to move the proceeding along in a timely and cost efficient manner by narrowing the issues as much as possible, ensuring that necessary information is exchanged, and where possible, settling as many issues as possible. Even in jurisdictions where there is no case management system, there may be various types of conferences with a judge, for example a case conference or a pre-trial conference, which are also intended to facilitate the process.

Motions for interim relief are common in family law matters, given that family law matters may take months, and sometimes much longer, to resolve. Motions for interim support, interim parenting arrangements, and disclosure of financial information are examples. In some cases, where there are urgent matters which need to be addressed, for instance, relief to ensure the safety of one or more family members, the courts will hear motions on an *ex parte* basis (i.e. without notice to the other party). Where relief is granted on this basis, a hearing involving both parties normally occurs a short time later, so that both sides have an opportunity to be heard.

Where matters do go to trial, the parties will call their evidence, and ultimately the judge will resolve the issues. In the vast majority of cases, however, a family law dispute will not proceed all the way to trial and a settlement of the issues will occur; this may happen very early in the process, or may happen much later, for example on the eve of the trial.

Given that family members will have to live on a long-term basis with the outcome of family law decisions made by a judge, parties are encouraged to resolve matters outside of court, where appropriate, through dispute resolution mechanisms such as negotiation, collaborative law, and mediation. There is recognition, however, that in cases involving family violence, special considerations apply, and that depending on the facts of the case, some or all of the above types of dispute resolution mechanisms may not be appropriate.

The rules of evidence in family law tend to be applied less strictly than in the criminal context. Further, the burden of proof in family law proceedings is the civil balance of probabilities, in contrast to the standard of beyond a reasonable doubt used in criminal law proceedings. As a result, while an individual may have charges withdrawn against them or may be acquitted under the criminal system, these facts and allegations may be taken into consideration by the judge in the family law context, and a finding of family violence in the civil context may nonetheless be made.

Finally, in contrast to criminal court decisions, which are only subject to appeal, most decisions in family court are subject to variation, usually based on a material change in circumstances, in addition to appeal.

### *2.2.2 Parenting arrangements*

The determination of parenting arrangements (also referred to as custody and access) is based on the best interests of the child principle. Where there are allegations of family violence (either child or intimate partner abuse), determinations with respect to parenting can be particularly challenging. Some jurisdictions explicitly mention family violence as a factor to be considered in the context of the best interests determination.<sup>72</sup> In jurisdictions where this criterion is not specifically mentioned, however, it would nonetheless be considered as part of the overall best interests of the child analysis.

The particular facts of each case will determine the appropriate parenting arrangement, and factors such as the nature, severity and frequency of the family violence will be particularly important. Appropriate parenting arrangements may range from arrangements where parents jointly make decisions about the child and both have significant periods of time with the child,

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<sup>72</sup> Saskatchewan Ministry of Justice, *Aboriginal Focus Group on Family Law, Summary Report* by the Policy, Planning and Evaluation Branch (October 2004); Family law legislation in Alberta, Manitoba, Newfoundland and Labrador, the Northwest Territories, Nunavut, Ontario, British Columbia and Nova Scotia all explicitly require a consideration of family violence in determining the parenting arrangement that is in the best interests of the child.

to arrangements involving more constraints on a parent's contact or authority related to the child such as:

- Specified access – the times and places for visits are specifically set out in the order;
- Supervised exchange – the pick-up and drop-off of the child takes place in the presence of third parties, so that the parents are not alone with one another, or is staggered so that the parents do not meet;
- Supervised access – the visit between a parent and child takes place in the presence of a third party;
- No contact between a parent and child, although this is rare. This is likely only to occur in extreme cases where there is an ongoing safety risk to family members or a risk of child abduction that cannot be addressed through other types of orders;<sup>73</sup>
- Non-removal clauses which restrict one or both parents from removing the child from the jurisdiction or the country without either the consent of the other parent and/or the consent of the court.

## 2.3 The child protection system

The function of the child protection system (or the child welfare system) is to protect children from harm and to help parents care for their children. While the law recognizes that parents have the primary responsibility and right to care for their children, where parents fail to exercise their rights with respect to their children or do so in a manner that is not in the children's best interests, the state has assumed the duty to intervene to protect the children's welfare through its *parens patriae* jurisdiction.<sup>74</sup>

The provinces/territories have responsibility under the Constitution for child protection.<sup>75</sup> The delivery of child protection services varies across the country; they may be delivered through government offices, through non-profit non-government agencies, or some combination of the two. Many First Nations and urban Aboriginal communities are also served by agencies that have staff with delegated authority from the provinces to provide child protection services in their communities.<sup>76</sup>

<sup>73</sup> Department of Justice Canada, *Making Appropriate Parenting Arrangements in Family Violence Cases: Applying the Literature to Identify Promising Practices* by Peter G Jaffe, Claire V Crooks, & Nick Bala, Research Report 2005-FCY-3E (Ottawa: Department of Justice, 2006) at 31, online: [http://www.justice.gc.ca/eng/rp-pr/fl-lf/parent/2005\\_3/2005\\_3.pdf](http://www.justice.gc.ca/eng/rp-pr/fl-lf/parent/2005_3/2005_3.pdf).

<sup>74</sup> *Alberta v K B*, 2000 ABPC 113, [2000] AJ No 1570 (Alt Ct Q B) at 68; *B (R) v Children's Aid Society of Metropolitan Toronto*, [1995] 1 SCR 315, at 374-375; and *T v Alberta (Director of Child Welfare)*, 2000 ABCA 182 at para 14.

<sup>75</sup> *Constitution Act*, *supra* note 42, s 92(13).

<sup>76</sup> There are treaty First Nations who have developed their own child welfare legislation. With respect to child protection on reserves, the Government of Canada provides funding to the provinces and territories through the First Nations Child and Family Services (FNCFS) Program. This program funds and promotes the development and expansion of child and family services agencies designed, managed and controlled by First Nations. Since child and family services is an area of provincial and territorial jurisdiction, these First Nation agencies receive their mandate and authorities from provincial or territorial governments and function in a manner consistent with existing provincial or territorial child and family services legislation. In areas where First Nations Child & Family Services

It is important to point out that even where a non-governmental organization delivers child protection services, they are doing so on behalf of the state. As a result, while child protection proceedings are civil in nature, the rights of the individuals involved must be balanced against the state's objective of protecting vulnerable children. In addition, if as a last resort, the state applies to deprive a parent of custody of their child, the proceedings must be conducted in accordance with the principles of fundamental justice because the parents' *Charter* rights may be at stake.<sup>77</sup> In that sense, child protection cases are different than custody cases related to parenting in a private family law proceeding.

This is an area of family law which has a disproportionate impact on Aboriginal children and families. Aboriginal women are more likely than non-Aboriginal women to be younger, single parents, living in poverty, dealing with poor housing, facing risks such as family violence, alcohol or drug addictions, and to have on average more children than non-Aboriginal women. These factors clearly contribute to the high level of Aboriginal children in care or the number of Aboriginal parents involved with child protection services.<sup>78</sup> A recent report examined the experiences and reflections of Aboriginal mothers involved with the child welfare and legal systems respecting child protection matters.<sup>79</sup> The report contains a number of recommendations on how to improve access to justice for the mothers and grandmothers involved in child protection cases.

### 2.3.1 Process

In all Canadian jurisdictions, child protection legislation requires members of the public to report to authorities when they have reason to believe (or suspect in some jurisdictions) that a child is in need of protection. The duty exists despite the fact that information on which the report is based may be confidential, privileged, acquired in the course of professional duties or protected by other legislative provisions. Most jurisdictions allow an exception in the case of a solicitor-client relationship. Civil immunity is granted to individuals who in good faith make a report. Individuals who fail to report may be subject to prosecution under the reporting legislation and professional disciplinary proceedings.

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agencies do not exist, Aboriginal Affairs and Northern Development Canada (AANDC) funds services provided by provincial or territorial organizations or departments.

<sup>77</sup> *New Brunswick (Minister of Health and Community Services) v G (J)*, [1999] 3 SCR 46; *Winnipeg Child and Family Services v K L W*, 2000 SCC 48, [2000] 2 SCR 519; However, in the child protection context, a *Charter* violation will not result in a stay of proceeding or an exclusion of evidence.

<sup>78</sup> Public Health Agency of Canada, *Canadian Incidence Study of Reported Child Abuse and Neglect – 2008: Major Findings* (Ottawa: Minister of Public Works and Government Services Canada, 2010), online: <http://www.phac-aspc.gc.ca/cm-vee/csca-ecve/2008/index-eng.php>

<sup>79</sup> First Nations Child & Family Caring Society of Canada, *Jumping Through Hoops: A Manitoba Study Examining Experiences and Reflections of Aboriginal Mothers Involved with the Child Welfare and Legal Systems Respecting Child Protection Matters*, a report prepared for Ka Ni Kanichihk Inc and the Steering Committee of the Family Court Diversion Project (Winnipeg: July 2008), online: <http://www.kanikanichihk.ca>.

While each jurisdiction sets out distinct parameters for determining whether a child is in need of protection, it generally includes exposure to or risk of physical, sexual or emotional child abuse, neglect and family violence. The child protection system may be triggered when a family experiencing violence is engaged in the family law or criminal justice system, for instance, where police officers responding to spousal violence have reason to believe that a child has been maltreated, including by virtue of exposure to spousal/intimate partner violence.

When a child protection agency or ministry receives a referral that a child may be in need of protection,<sup>80</sup> a child protection response is provided to determine whether the agency/ministry must conduct an investigation into the matter and determine whether there has been child maltreatment, as defined according to the legislation in the respective province or territory, or, where applicable, to provide a family development (or differential) response. Many jurisdictions' legislation explicitly lists exposure to domestic violence as a ground for protection.<sup>81</sup> In the other jurisdictions, despite the lack of an explicit mention of domestic violence as a ground for finding a child in need of protection, children exposed to domestic violence can be found to be in need of protection on the grounds that there is a likelihood of physical harm to the child or the child is likely to suffer emotional harm<sup>82</sup> as a result of the exposure to domestic violence.<sup>83</sup>

In many cases, in order to reduce the number of times that a child is interviewed, there is a joint investigation by police and child protection authorities. There are often investigation protocols in place in jurisdictions in order to promote collaboration.

In some cases, where children are thought to be in need of protection, the parents may enter into voluntary agreements with child protection agencies for support services. If, however, there is no agreement signed, child protection would also remain involved. These support services may include counselling or treatment programs for abusers. Informal supervision by the child protection agency may also occur.

In other severe cases where a protection authority believes a child is in need of protection, the authority will take the child into care (an apprehension). In most jurisdictions, an apprehension may take place pursuant to a warrant or court order. In addition, in cases where it is believed that the child is at immediate risk, the child can be removed from the home without a warrant or court order. In cases of apprehension, there will be a requirement for a court hearing to take place to determine whether the child is in need of protection and if apprehension is appropriate. In all cases where a court needs to determine whether a child is in need of

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<sup>80</sup> In some jurisdictions reports may be made to peace officers (Newfoundland and Labrador, Prince Edward Island, Saskatchewan and the Yukon).

<sup>81</sup> This is the case in Alberta, Saskatchewan, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador and the Northwest Territories.

<sup>82</sup> In British Columbia, likelihood of emotional harm is not a reason to find a child in need of protection. There must be harm as defined by the legislation.

<sup>83</sup> This is the case in Ontario, British Columbia, Yukon and Nunavut.

protection and the appropriate outcome for the child and family, the standard applied is what is in the best interests of the child.

The proceedings take place pursuant to the family court process and rules (e.g. pre-trial conferences, motions) until a final order is granted by the court, either on consent of all parties or pursuant to a trial if the facts are disputed by the parties. During the proceedings, the privacy rights of the individuals are maintained; for example, there is normally a publication ban to protect the identity of the children.

Examples of common child protection orders are: an order for supervision of the child by the child protection authority in the home, an order for the child to be brought into temporary care of the child protection authority, or into the care of a person other than a parent under the supervision of the authority, or an order for the child to be brought into the permanent care of the authority. In cases of family violence, the agency may recommend little or no contact between the alleged abuser and the children and the allegedly abused parent; it may also recommend that this access be supervised. This decision, as noted above, will be based on the best interests of the child.

In Alberta, Ontario and Saskatchewan, child protection legislation explicitly provides that child protection orders will have precedence over any other custody order.<sup>84</sup> In Newfoundland and Labrador, a party to a child protection case may apply to the court to consolidate with a separate custody case concerning the same child, in order to have both matters decided together.<sup>85</sup>

As is the case in family law proceedings, the rules of evidence are applied less strictly in child protection proceedings than in the criminal process. It is of note that in child protection cases, parents do not have a constitutional right against self-incrimination as in criminal proceedings and may be subjected to discovery requirements throughout the proceedings. In addition, as is also the case in the family law process, an alleged abuser may have charges withdrawn or may be acquitted under the criminal system, but the same facts and allegations under the child protection system may result in a finding that the child is in need of protection.

Finally, all Canadian provincial and territorial child protection legislation confers on children and young people the right to have their views considered by those making decisions that affect them, where their views and preferences can be reasonably ascertained. However, children 12 years or over are often afforded distinct rights that arguably recognize their increased capacity to make their own decisions about their care. A child may also have legal representation by a children's lawyer where the circumstances require their interests to be protected.<sup>86</sup>

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<sup>84</sup> *Child, Youth and Family Enhancement Act*, RSA 2000, c C-12, s 39; *Child and Family Services Act*, RSO 1990, c C.11, s 57.2; *Child and Family Services Act*, SS 1989-90, c C-7.2, s 37(8).

<sup>85</sup> *Children and Youth Care and Protection Act*, SNL 2010, c C-12.2, s 59.

<sup>86</sup> For example *Child and Family Services Act*, RSO 1990, c 11 s 38 and s 39; and *Child, Family and Community Service Act*, RSBC 1996, c 46, s 33.1.

## 2.4 Civil protection orders and family/domestic violence legislation

This section provides an overview of civil family, and domestic violence legislation in Canada. However, since this legislation does not exist in all Canadian jurisdictions and some of the orders available under specific civil family violence legislation are available through other legal means, a brief overview of protection orders provides some broader context.

### 2.4.1 Overview of civil protection orders

In addition to criminal protection orders, there are a number of ways for a victim of domestic violence to obtain civil court-ordered preventative protection from intimidation, harassment or assault by an intimate partner, spouse or other family member. Broadly speaking, these are civil restraining orders or injunctions and the various orders available under family violence legislation.

Civil restraining orders (alternately referred to as non-molestation orders, no-contact orders, or recognizances) are available under most provincial and territorial family legislation without the need for the applicant to demonstrate family violence. Child protection legislation generally provides for such restraining orders (alternately referred to as protective intervention orders or no-contact orders) if the court believes that a child's safety may be compromised by continued contact. These may also be obtained under the general powers of the court to order injunctions.

### 2.4.2 Orders under family/domestic violence legislation

In Canada, the following nine jurisdictions currently provide civil, court-ordered protection under a specific family violence statute: Alberta,<sup>87</sup> Manitoba,<sup>88</sup> Newfoundland and Labrador,<sup>89</sup> the Northwest Territories,<sup>90</sup> Nova Scotia,<sup>91</sup> Nunavut,<sup>92</sup> Prince Edward Island,<sup>93</sup> Saskatchewan<sup>94</sup> and the Yukon.<sup>95</sup> Other jurisdictions have similar provisions included in other statutes, such as family law legislation. These legislative initiatives all share certain similar features, including: definitions of what constitutes domestic or family violence or abuse; the types of family or conjugal relationships that give rise to protection under the act; the particular types of court orders possible and their duration; provisions for the enforcement of orders made under the act; and sanctions for false or malicious reports. Each act provides for victims or certain designated third parties, including law enforcement personnel, to apply for an emergency

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<sup>87</sup> *Protection Against Family Violence Act*, RSA 2000, c P-27.

<sup>88</sup> *Domestic Violence and Stalking Act*, SM 1998, c 41, CCSM c D93.

<sup>89</sup> *Family Violence Protection Act*, SNL 2005, c F-3.1.

<sup>90</sup> *Protection Against Family Violence Act*, SNWT 2003, c 24.

<sup>91</sup> *Domestic Violence Intervention Act*, SNS 2001, c 29.

<sup>92</sup> *Family Abuse Intervention Act*, SNU 2006, c 18.

<sup>93</sup> *Victims of Family Violence Act*, RSPEI, 1988, c V-3.2.

<sup>94</sup> *The Victims of Domestic Violence Act*, SS 1994, c V-6.02.

<sup>95</sup> *Family Violence Prevention Act*, RSY 2002, c 84.



protection order or intervention order, *ex parte* without the necessary involvement of a lawyer “on an expedited basis at no cost, 24 hours per day.”<sup>96</sup>

Under civil family violence statutes, remedies found in a variety of provincial and territorial legislation are made available under one statute. These remedies generally include:

- Emergency protection orders granting the victim temporary exclusive occupation of the home;
- No-contact/communication orders;
- Temporary possession of personal property (including family vehicles or credit cards);
- Temporary care and custody of the children to the victim;
- Interim support orders; and
- Specific prohibitions against selling, converting, or damaging property.

Furthermore, the legislation may also provide for entirely new civil remedies. For example, with the exception of Prince Edward Island, Saskatchewan and Yukon, all jurisdictions that have family violence legislation now enable a civil court to order weapons to be surrendered, seized and stored. This had only previously been clearly available as a remedy under the *Criminal Code*. The Manitoba *Domestic Violence and Stalking Act* and Nunavut *Family Abuse Intervention Act* also introduce a statutory right to compensation for the tort of stalking which may be awarded without proof of damages.<sup>97</sup> Under Alberta’s *Protection Against Family Violence Act*, a warrant can be obtained to enter premises, verify the security of a family member at risk of domestic violence and, with that person’s consent, remove them in order to assist or examine them.<sup>98</sup>

These civil statutes are intended to complement the criminal law process, and jurisdictions are encouraged to proceed with criminal charges where applicable. An emergency protection or intervention order is granted by a justice of the peace or judge, based on an *ex parte* application by the victim or by a designated third party. These are usually short-term orders, available on a balance of probabilities that family violence has occurred, regardless of whether criminal charges have been laid, withdrawn or dismissed. They are designed to give immediate protection to victims of family violence by prohibiting contact between the respondent and the complainant.<sup>99</sup>

While some jurisdictions make emergency protection orders available, some have also created a distinct category of court-ordered protection: prevention,<sup>100</sup> victim’s assistance<sup>101</sup> or Queen’s

<sup>96</sup> Catherine Christopher, *The Law of Domestic Conflict in Canada* (Carswell: 2009, Release 2), at 2-2.

<sup>97</sup> *Domestic Violence and Stalking Act*, CCSM c D93, s. 26; *Family Abuse Intervention Act*, SNU 2006, c 18, s 24.

<sup>98</sup> *Protection Against Family Violence Act*, RSA 2000, c P-27, s 10.

<sup>99</sup> On the issue of the duration of these orders, see *A L G C v Prince Edward Island* [1998] PEIJ No 15 at paras 32-33; *MacNeil v MacNeil* [2000] YJ No 1 at para 42; and *M L A v R S*, [2000] YJ No 127 at para 22.

<sup>100</sup> *Domestic Violence and Stalking Act*, SM 1998, c 41, CCSM c D93, s 14(1).

<sup>101</sup> *The Victims of Domestic Violence Act*, SS 1994, c V-6.02, s 7(1); *Family Violence Prevention Act*, RSY 2002, c 84; *Victims of Family Violence Act*, RSPEI, 1988, c V-3.2 s 7(1).

Bench protection orders,<sup>102</sup> which can be obtained from a judge of the provincial or territorial superior court only upon notice to the respondent party. In addition to providing greater procedural safeguards to the respondent, this additional class of protection orders generally offers the possibility for longer-term, more extensive remedies.

Protection, prevention or intervention orders are generally *not* the appropriate forum for determining child custody and access matters (except to the extent that the protection, intervention or assistance order affects a parenting arrangement)<sup>103</sup> and other separation issues such as support, maintenance, and family property division.<sup>104</sup> In *MacNeil v MacNeil* the court concluded that:

The remedies available under the *Family Violence Prevention Act* are intended to be interim orders for the purpose of providing immediate assistance and relief from family violence. They are not substitutes for relief under other territorial and federal legislation dealing with family property division, support and maintenance, custody and access and divorce.<sup>105</sup>

Several evaluations of civil family or domestic violence legislation have been undertaken, generally with positive results.<sup>106</sup>

Because of the legal status of First Nations reserves, provincial or territorial civil, family law or family violence protection orders cannot apply in relation to real property (e.g. temporary exclusive occupation of the home). *An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves (the Family Homes on Reserves and Matrimonial Interests or Rights Act)*<sup>107</sup> received royal assent on June 19, 2013. The Act establishes provisional rules and procedures and provides for the adoption of First Nation laws (which could replace the provisional rules set out

<sup>102</sup> *Protection Against Family Violence Act*, RSA 2000, c P-27, s 4(1).

<sup>103</sup> *L L v D G*, [2009] AJ No 1263, 2009 ABCA 387 at para 11; See also *Hartman v Fulton*, [2011] AJ No 1090, 2011 ABQB 619, at para 20-21.

<sup>104</sup> See *M L A v R S*, [2000] YJ No 127 at para 22; *MacNeil v MacNeil*, [2000] YJ No 1 at para 42.

<sup>105</sup> [2000] YJ No 1 at para 42.

<sup>106</sup> See, for instance: Wanda Wieggers & Fiona Douglas, *Civil Domestic Violence Legislation in Saskatchewan: An Assessment of the First Decade* (Regina: Canadian Plains Research Center, 2007); Leslie Tutty et al, *Alberta's Protection Against Family Violence Act: A Summative Evaluation* (Calgary: Resolve Alberta, May 2005), online: <[http://www.child.alberta.ca/home/images/familyviolence/Summative\\_Evaluation.pdf](http://www.child.alberta.ca/home/images/familyviolence/Summative_Evaluation.pdf)>; Bradford & Associates, *PEI Victims of Family Violence Act Final Evaluation Report* (Charlottetown: August 2001) online: <[http://www.gov.pe.ca/photos/original/oag\\_vic\\_fam\\_act.pdf](http://www.gov.pe.ca/photos/original/oag_vic_fam_act.pdf)>; Department of Justice Canada, *Review of Provincial and Territorial Domestic Violence Legislation and Implementation Strategies* by Tim Roberts (Ottawa: rr2001-4e Research and Statistics Division, February 2002) online: <[http://www.justice.gc.ca/eng/rp-pr/csj-sjc/isp-sjp/rr01\\_4/rr01\\_4.pdf](http://www.justice.gc.ca/eng/rp-pr/csj-sjc/isp-sjp/rr01_4/rr01_4.pdf)>; A comparative legal analysis of civil domestic violence legislation in Saskatchewan, Manitoba and Alberta can be found in Karen Busby, Jennifer Koshan & Wanda Wieggers "Civil Domestic Violence Legislation in the Prairie Provinces: A comparative Legal Analysis" in Jane Ursel, Leslie M Tutty & Janice LeMaistre, *What's Law Got To Do With It? The Law, Specialized Courts and Domestic Violence in Canada* (Markham: Cormorant Books, 2008); Department of Justice, NWT, *Evaluation of the Protection Against Family Violence Act (PAFVA)*, Final Report by R.A. Malatest & Associates (Ottawa, 2011), online: <<http://www.justice.gov.nt.ca/FamilyViolence/documents/EvaluationofthePAFVAReport-FinalwAppendices.pdf>>.

<sup>107</sup> SC 2013, c 20.

in the Act) respecting the use, occupation, possession and division of the value of any interests or rights of family homes on First Nation reserves. The Act also provides that in situations of family violence, emergency protection orders can be obtained to, among other things, order that the applicant's spouse or common-law partner temporarily vacate the home. Individuals can also apply for a court order awarding exclusive occupation of the family home for a prescribed period. Neither emergency protection orders nor exclusive occupation orders alter the interests or rights held in or to the family home.

#### 2.4.3 *Ex parte proceedings*

Emergency protection or intervention orders will generally be made available on an *ex parte* basis if the situation is considered to be sufficiently urgent and serious to justify precluding the respondent from receiving notice and being heard. In most jurisdictions, once an emergency order has been granted, the justice of the peace or judge must immediately forward all documents for review within a specified period (often 24 hours) to a judge of the superior court. The need for swift and discreet action in cases of family violence has justified this lack of notice to the affected party, especially in light of the limited scope and duration of these orders. The respondent must, however, be given speedy and adequate notice of the review order that takes place soon after the original order is made. In *C (A L G) v Prince Edward Island*, the court concluded that insufficient notice of the Superior Court's review, under older provisions of Prince Edward Island's *Family Violence Act*, was considered a violation of section 7 of the *Charter*.<sup>108</sup> The court found that:

[T]he principles of fundamental justice require that a respondent, as a person who is directly affected by the order, be afforded an opportunity to be heard when a judge subsequently conducts a review hearing. ... [A]dministrative convenience and the avoidance of emotional harm on the victim, the latter which is clearly an important concern, do not justify the denial of the right of natural justice, including the right to conduct cross-examinations at the court hearing.<sup>109</sup>

Prince Edward Island's family violence legislation has since been amended to include the respondent's right to prompt notice of a judge's confirmation order along with a clear indication of their right to apply to have the order revoked or varied. All jurisdictions now provide similar procedures for the affected party to receive notice of their right to be heard during a review of the order, including the right to conduct cross-examinations.

According to Justice Yard in the 2000 Manitoba case of *Shaw v Shaw*, a party to a family law matter should be discouraged from going outside of the proceedings to seek an *ex parte* emergency protection order, in particular when protection can be obtained from the better-informed court handling the family litigation.<sup>110</sup>

<sup>108</sup> *C (A L G) v Prince Edward Island* (1998), [1998] PEIJ No 15, at para 37 & 43.

<sup>109</sup> *Ibid* at para 43.

<sup>110</sup> *Shaw v Shaw*, [2000] MJ No 115; also: *S C H S v K S*, 2000 CanLII 20874 (MB QB) at para 36.

#### *2.4.4 Penalties for non compliance*

With the exception of Manitoba and Saskatchewan, all of the current family violence statutes include penalties for non compliance. These penalties include fines ranging between \$500 and \$10,000 maximum and imprisonment ranging between 14 days and two years maximum, with distinctions made between first and subsequent offences. For Manitoba and Saskatchewan, section 127 of the *Criminal Code* would apply, which creates a default hybrid criminal offence for the non-compliance of a court order when no other penalties are provided by law. Section 127 provides for a maximum two-year prison sentence upon indictment.

### ANNEX 3: Evaluations of integrated domestic violence courts

There have been several evaluations of Integrated Domestic Violence (IDV) courts to date and the results overall appear promising. The evaluations, however, often measure different outcomes, and the court models vary somewhat from jurisdiction to jurisdiction, which makes comparison challenging. As a result, rather than attempting to provide an overall assessment of IDV courts, this Annex provides an overview of several evaluations.

#### Bennington County, Vermont

The evaluation of the IDV court in Bennington County, Vermont<sup>111</sup> focused primarily on the issue of recidivism. The study concluded that participants in the IDV court recidivated less often or at a similar level to participants in other courts; they did, however, appear to recidivate more quickly. It is interesting to note that reconvictions involved a number of different offences including motor vehicle offences, assaults, drug crimes, driving while intoxicated, domestic assault and alcohol offences. This suggests that this population has service needs beyond simply the issue of family violence. The evaluation also concluded that the processing time for cases prosecuted in the IDV court was much faster than other courts; the processing time for criminal cases was twice as quick as those in the Bennington County District Court and three times quicker than cases across the state.

#### Erie County, New York<sup>112</sup>

The number of appearances by families in the IDV court in Erie County, which includes Buffalo, was much lower than for a comparator non-IDV court. The IDV courts, however, required more post-disposition appearances in the criminal cases;<sup>113</sup> this can be seen as positive though, since the purpose of these appearances is to ensure offender accountability. In family court cases, there were higher rates of withdrawn and settled cases than in non-IDV cases; families were also less likely to return to court with a new filing within six months of the case disposition. These results suggest that families in IDV court were more satisfied with the disposition of their case. Further, in comparison to criminal cases in non-IDV cases, defendants were more likely to plead guilty or receive an adjournment in contemplation of dismissal,<sup>114</sup> but were less likely to

<sup>111</sup> Vermont Centre for Justice Research, *Bennington County Integrated Domestic Violence Docket Project: Outcome Evaluation* (Northfield Falls, Vermont: December 2011), online:

<[http://www.vcjr.org/reports/reportscrimjust/reports/idvdreport\\_files/IDVD%20Final%20Report.pdf](http://www.vcjr.org/reports/reportscrimjust/reports/idvdreport_files/IDVD%20Final%20Report.pdf)>. The Court in Vermont covered: criminal division misdemeanour offences, some felony offences, all violation of probation cases, family abuse prevention order cases involving domestic violence, child custody, juvenile matters, and support issues where possible.

<sup>112</sup> In Erie County, eligible cases were those that had a criminal case (misdemeanour or felony domestic violence case) and a concurrent eligible case in either matrimonial or the family court (family offence, custody/visitation, neglect/abuse).

<sup>113</sup> Sara Picard-Fritsche, Amanda B Cissner & Nora Puffett, *The Erie County Integrated Domestic Violence Court: Policies, Practices and Impacts, December 2003-December 2005* (Centre for Court Innovation, September 2011).

<sup>114</sup> According to the evaluation, an “adjournment in contemplation of dismissal” permits the court to reopen the defendant’s case in the event of future criminal activity.

have their case dismissed. Finally, it was noted that one of the goals of the IDV court is the improved enforcement of protective orders. The study found that there were a higher number of IDV court litigants who faced new criminal contempt charges while their cases were ongoing, as well as in the six months following the disposition. The authors of the study suggest that there are a number of possible explanations for this – there may be higher number of protection orders being made in the IDV court, a higher number of violations, higher reporting of violations or increased surveillance of the defendant through the court monitoring.

### New York City and Long Island, New York

Another study in New York looked specifically at the issue of protection orders. The study compared cases in IDV courts to non-IDV courts between 2003-2009 from the five boroughs of New York City and Long Island, and found that the IDV courts took longer to address motions for permanent civil protection orders, and were no more likely to grant such orders. Different explanations for these outcomes were hypothesized. For example, it was suggested that the IDV court judges may prioritize cases in such a way that the criminal and civil cases are heard first with the civil protection orders being heard later. It was also suggested that it may take longer to schedule appearances in IDV court because of the large number of legal and non-legal advocates who need to be involved in an IDV court hearing.<sup>115</sup>

### Idaho IDV Courts

IDV courts in Idaho have also been evaluated. In July 2002 Ada County began a pilot program, called the Ada County Family Violence Court Grant Project (“Ada County Project”), to better manage cases involving domestic violence. The project involved a “one family – one judge” model, for cases involving divorce, custody, child support as well as misdemeanor criminal cases related to domestic violence. The Ada County Project was awarded a grant from the United States Department of Health and Human Services, and introduced a case coordinator and expanded the community services available to participants in the program.

An evaluation of the Ada County Project found that it had a positive impact on both child and parent safety.<sup>116</sup> For example, no children in the program were involved in a substantiated report of child maltreatment during the program or in the following six months. Group participants also had lower rates of violence-related charges, no-contact or protection order violations and filing of new protection orders, than did a comparison group; similar levels of drug and alcohol charges were reported for both groups, however. The participants in the IDV court also had less court involvement post-program than did the comparison group; the authors noted that this could result in cost savings, but that more study was needed on this point.

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<sup>115</sup> Erika Rickard, “Civil Protective Orders in Integrated Domestic Violence Court: An Empirical Study (2010)” online: <<http://nrs.harvard.edu/urn-3:HUL.InstRepos:4772900>>.

<sup>116</sup> Kenneth M Coll & Roger Stewart, “ADA County Family Violence Court Comprehensive Evaluation Report”, June 2007, online: <[http://www.isc.idaho.gov/dv\\_courts/FVC\\_Comprehensive\\_Eval\\_Report.pdf](http://www.isc.idaho.gov/dv_courts/FVC_Comprehensive_Eval_Report.pdf)>.

The evaluation of the Ada County Project found that stakeholders assessed the project very positively in terms of coordination and collaboration, and in particular the role of the Domestic Violence Coordinator. The Domestic Violence Coordinator in the Ada County Project was involved in tasks such as: intake and assessment, case management and coordination, monitoring treatment programs and completion of programs, maintaining direct contact with families, coordinating and facilitating meetings with treatment providers and helping to develop treatment plans. Similarly, an evaluation of the IDV courts in the Sixth and Seventh Judicial Districts in Idaho describes the role of their Domestic Violence Coordinator as follows:

As the central hub, the Domestic Violence Coordinator provides valuable linkage between court personnel, service providers, and victims and defendants alike. Information is gathered and transmitted along the various spokes to the relevant stakeholders. All spokes of the wheel are equally supported by, and dependent upon, the neutral role of the Domestic Violence Coordinator hub. Again, all of this is contextualized with the decision making function of district judges.<sup>117</sup>

The evaluation of the IDV courts in the Sixth and Seventh Judicial Districts in Idaho concluded that the Domestic Violence Coordinator is invaluable, and plays a critical role in collaboration, coordination and the efficiency of the court. The existence of IDV courts, including the role of the Domestic Violence Coordinator, have now been legislatively recognized in Idaho.<sup>118</sup>

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<sup>117</sup> Nicole R Hill & David M Kleist, *Evaluation of the Idaho Supreme Court OVW Grant to Encourage Arrest Policies and Enforcement of Protection Orders*, August 2008, at 13, online: [http://www.isc.idaho.gov/dv\\_courts/6th\\_7th\\_Dist\\_Evaluation.pdf](http://www.isc.idaho.gov/dv_courts/6th_7th_Dist_Evaluation.pdf).

<sup>118</sup> *Idaho Code* § 32-1401 – 32-1410.

## ANNEX 4: Family violence responses by jurisdiction

Canada
Legislative Responses
<p><b>Criminal Law</b></p> <p>The <i>Criminal Code</i> sets out criminal offences applicable throughout Canada. Many offences are relevant in family violence cases including assault, sexual assault, uttering threats, forcible confinement, criminal harassment, destruction of property, homicide and abduction of a child. It is an aggravating factor for sentencing purposes when the offence involved the abuse of an offender's spouse or child or of a position of trust or authority (section 718.2).</p> <p>Criminal protection or no-contact orders may be relevant in cases of family violence. Generally, these protective orders arise in the context of:</p> <ul style="list-style-type: none"> <li>• Release, no-contact or bail orders (sections 497-524);</li> <li>• Recognizance orders or peace bonds (section 810); or</li> <li>• Probation and non-communication orders following conviction (sections 731-732.1, 742.3, 743.21).</li> </ul> <p>The procedural provisions of the <i>Criminal Code</i> also apply to the protection of complainants and witnesses (including children) in family violence proceedings. These include:</p> <ul style="list-style-type: none"> <li>• Allowance of a support person for a child when testifying (sub-section 486.1(1));</li> <li>• Allowance of a support person for any witness, including the complainant (sub-section 486.1(2));</li> <li>• Allowance for testimony to be given outside the courtroom to prevent contact with the offender (for children) (sub-section 486.2(1));</li> <li>• Allowance for testimony to be given outside the courtroom to prevent contact with the offender (other, adult witnesses) (sub-section 486.2(2));</li> <li>• Preventing unrepresented offender from cross examining a child (sub-section 486.3(1));</li> <li>• Preventing unrepresented offender from cross examining any other adult witness, including the complainant (sub-section 486.3(2));</li> <li>• Detained, pending bail application, no contact order (section 516);</li> <li>• Detained, following bail application, no contact order (sub-section 515(12));</li> <li>• Sentenced to custody, no contact order (section 743.21)</li> </ul> <p><b>Family/Domestic Violence Legislation</b></p> <p>Civil family violence legislation is a matter of provincial/territorial jurisdiction. However, <i>An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves</i>, SC 2013, c 20, addresses issues relating to family real property on reserve. The federal provisional rules in the Act apply until a First Nation has such laws in force. In situations of family violence, emergency protection orders can be obtained from a designated judge. Such orders can grant exclusive possession of the family home for up to 90 days plus extension (sections 16-19).</p>



## Canada

### Family Law Provisions Related to Family Violence

Provincial and territorial family laws apply to situations involving intact families, unmarried couples who separate and married couples who separate but do not pursue a divorce. The federal *Divorce Act* applies across Canada when married couples seek to divorce. The *Divorce Act* provides that decisions related to custody and access must be made in the best interests of the child (sub-section 16(8)). Although there is no list of best interests criteria in the Act, one of the factors that the courts will consider is whether there has been family violence.

### International Instruments

Canada is a party to a number of international human rights treaties that have provisions of relevance to family violence, namely:

- *UN Convention on the Rights of the Child*, a public international law treaty which provides that the best interests of the child shall be a primary consideration in all actions concerning children (Article 3); that the principle that both parents have common responsibilities, rights and duties with respect to raising their children (Articles 5 & 18) and; that a child has a right to protection from neglect, violence and abuse (Article 19).
- *UN Convention on the Elimination of All Forms of Discrimination Against Women*, a public international law treaty which provides that women and men have the same rights and responsibilities as parents and in family law matters (Article 16).
- *Hague Convention on the Civil Aspects of International Child Abduction*, a private international law treaty to secure the prompt return of children wrongfully removed to or retained in any Contracting State and to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States. Article 13 provides an exception where there is a grave risk that the child's return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

## Police

The provinces have jurisdiction to investigate *Criminal Code* offences as well as offences under provincial legislation and municipal by-laws. Ontario and Quebec have established their own provincial police forces. The other provinces have entered into agreements with the Royal Canadian Mounted Police (RCMP) to contract their services. The RCMP is the police force in the territories. Policing in larger municipalities is provided either by the provincial police or by separate municipal forces.

### Policies

The RCMP Violence in Relationships policy directs units to participate in multi-agency community-based initiatives or programs to reduce the incidence of violence in relationships, improve public awareness, and develop protocols for responding to violence in relationships. Protocols for responding to violence in relationships must be sensitive, respectful and responsive to the cultural needs and traditions of communities. Each RCMP Division is

<p style="text-align: center;"><b>Canada</b></p> <p>responsible for developing protocols in responding to violence in relationships. Within this policy, if a child has been exposed to an incident of violence in a relationship, members are directed to notify the appropriate provincial or territorial child welfare services agency. When an accused or suspect is to be released from custody, every effort must be made to notify the victim in advance of the release and of the conditions. The RCMP also maintains policy on Parental/Child Abductions, Criminal Harassment and Missing Persons.</p> <p>The onus is on the police to lay or recommend charges of a <i>Criminal Code</i> offence or an offence that has been committed under provincial or territorial family violence legislation. The primary purpose of swift police intervention is to protect victims of violence in relationships.</p> <p><b>Protocols</b></p> <p>The RCMP recognizes victim services to be an integral component of the continuum of comprehensive police services. Timely involvement of victim services is critical to the preservation of peace and prevention of crime. It is an integral part of the prevention and reduction of victimization and potential re-victimization and is an obligation of the RCMP.</p> <p>The RCMP offers Evidence-based, Risk-focused Domestic Violence Investigations training to encourage officers to take a proactive and collaborative approach to promoting and managing victim safety. The course was developed by the British Columbia Ministry of Public Safety and Solicitor General in collaboration with British Columbia police, Crown Counsel, Victim Services, Community Corrections, and the Ministry of Children and Family Development. The RCMP modified the content to create an e-learning course that can be used in each province and territory and can be tailored to meet their unique needs.</p>
<p style="text-align: center;"><b>Crown</b></p> <p>The prosecution of <i>Criminal Code</i> offences as well as provincial penal statutes is a matter of provincial jurisdiction. The Public Prosecution Services of Canada prosecutes <i>Criminal Code</i> offences in the territories. For the relevant policies, see the territorial annexes.</p>
<p style="text-align: center;"><b>Child Protection</b></p> <p>Child protection legislation is a matter of provincial/territorial jurisdiction. Child protection services for First Nation children and families are provided in accordance with the legislation and standards of the province or territory of residence, and funded by Aboriginal Affairs and Northern Development Canada's First Nations Child and Family Services (FNCFS).</p>
<p style="text-align: center;"><b>Service-Based Responses</b></p> <p><b>Victim Services</b></p> <p><b>The National Office for Victims (NOV)</b> is a single, national point of contact for victims who have concerns about offenders and questions about the federal correction system and the Canadian justice system. It also provides members of the criminal justice system, the general public and staff of Public Safety Canada, the Correctional Service of Canada (CSC) and the Parole Board of</p>

### Canada

Canada (PBC) with information and input about victims' issues.

**The Restorative Justice Division** of CSC provides victim-offender mediation services to victims of crime through the Restorative Opportunities Program.

#### **Victims Fund**

The Federal government allocates \$11.6 million annually to this grants and contributions fund for such initiatives as funding to victims and a support person to travel to attend Parole Board hearings with the victims; funding for Canadians victims abroad; funding for NGOs to develop or implement projects to increase awareness of victim issues or services to victims; funding to enhance culturally sensitive victims services for families of missing and murdered Aboriginal women.

A major portion of the Victims Fund is used to establish or enhance Child Advocacy Centres (CAC) across Canada. CACs adopt a seamless, coordinated and collaborative approach to helping child and youth victims of crime to minimize system-induced trauma by providing services to young victims and their families in child-friendly settings. In 2011-2012, a total of 11 CACs across Canada were funded. In Budget 2012, the Government doubled the amount of money available for CACs.

#### **National Victims of Crime Awareness Week**

The National Victims of Crime Awareness Week (NVCAW) is held in April every year, the goal is to raise awareness about issues facing victims of crime and the services, programs and laws in place to help victims and their families.

Just prior to NVCAW 2012, the Prime Minister announced a new federal income support for parents of missing or murdered children to provide \$350 per week for up to 35 weeks. During NVCAW 2012, the Minister of Justice announced a further \$7 million over 5 years in funding for the Victims Fund. This new funding will be used to support CACs and provide time-limited operational funding to victim-serving non-governmental organisations.

#### **Shelters**

Under the Family Violence Initiative, the Government of Canada provides financial assistance for the repair, rehabilitation and improvement of existing shelters for women and their children, youth and men who are victims of family violence. Funding may be used in areas such as security, access for persons with disabilities, and in play areas. The assistance provides for the acquisition or construction of new shelters and second stage housing where needed.

Off reserve, financial assistance for shelters for victims of family violence flows through bilateral agreements with provinces and territories for the Investment in Affordable Housing. Under these agreements, provinces and territories cost match and deliver the federal investment. In the one jurisdiction where such an agreement is not in place, federal funding is delivered

### Canada

through the Shelter Enhancement Program. From 2006 to 2011, over \$68 million was committed toward shelters for victims of family violence either through federal delivery or through provincial and territorial mechanisms.

In addition, for the same period, the Government of Canada provided close to \$7 million in federal funding for shelters for victims of family violence in First Nations communities.

Health Canada's **Labrador Innu Health Program** funds two Innu communities in Labrador (Natuashish and Sheshatshiu) to support their community-led healing initiatives. As part of this program, Health Canada and Aboriginal Affairs and Northern Development Canada jointly fund safe houses in the two Innu communities. The safe houses operate youth intervention and mental health programming, including culturally appropriate health promotion and prevention activities for community members to increase knowledge of family violence, parenting, crisis intervention, etc. The safe house in Natuashish also doubles as the community's women's shelter. Through other components of the Program, training is available to program staff and wellness education to community members to build knowledge on mental wellness topics including family violence and child abuse.

Aboriginal Affairs and Northern Development Canada's **Family Violence Prevention Program** provides funding to assist First Nations in providing access to family violence shelter services and prevention activities to women, children and families ordinarily resident on-reserve. There are two components to the program: operational funding for shelters; and proposal-based prevention projects.

Economic Action Plan 2012 committed funding of \$11.9 million over one year for the Family Violence Prevention Program, allowing the Department to continue to offer in 2012-2013 its programming at a funding level of \$30.4 million similar to previous years. This investment contributes to enhanced safety and security of on-reserve residents, particularly women and children.

### Abusive Partner Programs

The Correctional Service Canada (CSC) is legally mandated to provide programs and services that address offenders' criminal behaviour and contribute to their successful transition into the community. At the beginning of every new federal sentence, offenders are assessed on a variety of areas to determine the types of programming he or she requires in order to reduce the risk of re-offending and/or promote successful reintegration.

Correctional programs focus on risk factors that contribute to criminal behaviour and aim to reduce re-offending by helping offenders make positive changes. Specific family violence prevention programs offered by CSC are comprised of the following:

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The **High Intensity Family Violence Prevention Program** and the **Moderate Intensity Family Violence Prevention Program** are designed to reduce offender violence and abuse toward intimate partners and family members by enhancing offender motivation, establishing personal insight, providing information on parenting and healthy non-abusive relationships, and assisting in skill-building related to thoughts, emotions and positive social behaviour.

The **High Intensity Aboriginal Family Violence Prevention Program** addresses the specific needs of Aboriginal offenders through the provision of spiritual and holistic cultural teachings, ceremonial components involving Aboriginal Elders, and through recognizing the realities of Aboriginal social history. The program is designed to help offenders develop insight, change beliefs that underlie abuse and violence, practice problem-solving and communication skills, and acquire information on parenting and the promotion of sacred healthy non-abusive relationships.

The **Treatment Primer (Roadways to Change)** consists of a resource kit designed to raise awareness of family violence issues and promote the value of addressing family violence concerns in a non-confrontational manner.

The **Family Violence Prevention Maintenance Program** is a follow-up intervention that is intended for men offenders who have completed one of the above-mentioned main national family violence prevention programs. The primary goal of the maintenance program is to reduce the risk of men's violence against intimate female partners by supporting and sustaining treatment gains.

Lastly, the **Integrated Correctional Program Model (ICPM)** is an innovative and multi-target program which addresses family violence prevention in addition to other risk factors associated with criminal behaviour, such as substance abuse and general violence. The ICPM is a pilot program currently offered in the Atlantic and Pacific Regions and consists of three distinct program streams, all of which include an institutional and community maintenance component thereby extending the continuum of care. The needs of offenders with family violence risk factors are met through the teaching of skills related to mitigating partner violence, general violence and harmful beliefs by addressing distorted thinking patterns such as intimidation, power and control.

### Parent Education/Information

**Community Action Program for Children (CAPC)** and **Canada Prenatal Nutrition Program (CPNP)** are federally funded Public Health Agency of Canada (PHAC) programs that are jointly managed with provinces and territories and offered across Canada by community based public health organizations.

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CAPC and CPNP are intended to reach and respond to the health issues affecting pregnant women, children aged 0 to 6 and their families facing conditions of risk. These include: Low socio-economic status (low income; inadequate housing; insecure employment; food insecurity; and low education); social isolation (lone parent and/or lack of supportive relationships and recent arrival in Canada); teenage parents, situations of violence and/or neglect, tobacco or substance use and/or addiction.

Services incorporate education and intervention activities which include; parenting skills programs, child development activities, health programs, collective kitchens, outreach and home visits. CPNP and CAPC enable communities to develop a continuum of integrated services to promote the health and social development of at risk children and their families. Projects are highly integrated in their communities and are often able to offer referrals to specialized counselling and intervention services.

Health Canada delivers the First Nations and Inuit Component of CPNP (CPNP-FNIC) to First Nations women living on-reserve and Inuit women in Inuit communities. The CPNP- FNIC supports improved maternal and infant health. Funded activities are related to nutrition screening, education, and counselling; maternal nourishment; and breastfeeding promotion, education and support.

PHAC's **Nobody's Perfect Parenting Program**. Implementation is funded by the provinces and territories and offered by social service agencies, non government organizations and community health organizations. It serves parents of children from birth to age five who are young, single, have low income, limited formal education or who are socially, culturally or geographically isolated. The parenting program is based on adult education principles and social support theory to affect positive change in the behaviour of participants in relation to their children's health, safety and behaviour. Improves parents' coping skills, sense of competence and positive discipline while decreasing anger and spanking.

**Family Violence Toolkit: Building Community Capacity to Address Family Violence** was developed by Halte-Femmes Montréal-Nord; federally funded through PHAC's Community Action Program for Children (CACP) and the Canada Prenatal Nutrition Program (CPNP) National Projects Fund.

The resource is available to service providers and community public health organizations across Canada. This toolkit includes tools and resources that facilitate an understanding of family violence, promote the development of individual and collective strategies when faced with situations of violence, and counteract feelings of powerlessness.

### Canada

Health Canada's **Brighter Futures (BF) and Building Healthy Communities (BHC)**. Program funding is available to all First Nations and Inuit communities to support community designed and delivered mental health, child development, parenting and injury prevention programs and services. In addition, funding supports communities to address mental health crises.

The funding is used by communities to address local needs and priorities. It is common for BF/BHC funding to be used by communities to directly address issues of family violence. Activities include the provision of: workshops/support groups on topics like anger management, healthy relationships, and parenting; individual/family counselling; and crisis intervention teams that provide assistance during crisis situations like episodes of family violence.

#### Child Education/Information

PHAC provides funding under the **Aboriginal Head Start in Urban and Northern Communities (AHSUNC)** program to Aboriginal communities in urban and northern communities. Each year, 128 AHSUNC sites across the country reach an estimated 4,800 children and their families. Sites provide parent education/info including outreach and referral services, training and workshops on parenting and assistance for children with special needs. Some sites also support supervised access.

Health Canada's **Aboriginal Head Start On Reserve (AHSOR) program** nurtures the healthy growth and development of children from birth to six years of age in First Nations communities across Canada, by supporting the physical, developmental, emotional, social, cultural, and spiritual well-being of children. The program is based on six components: promotion and protection of language and culture; nutrition; education; health promotion; social support; and parental and family involvement.

Health Canada's **Maternal Child Health (MCH) program** provides home visits and linkages to services for pregnant First Nations and Inuit women and families with young children. The MCH program model has been linked with improved parenting skills and quality of home environment, improved cognitive development of infants and young children, decreased incidence of unintentional injury, improved bonding and enhanced quality of social supports and resources to families. Services through the MCH program include: reproductive health; screening and assessment of pregnant women and new parents to assess family needs; and home visiting to provide follow-up, referrals, and case management as required. Cultural values are integrated into all program components.

#### Other Services

Status of Women Canada's **Women's Program** provides funding to support action to advance equality between women and men in the economic, social and democratic life of Canada. Funding is provided to eligible organizations in support of projects at the local, regional and national levels that address violence against women and girls as one of its three priority areas. Recently funded projects that address the issue of violence against women and girls include



### Canada

those that: promote the engagement of men and boys; support the development of specialized tools; and work to improve existing services/programs for women, communities and service professionals.

Health Canada's **National Native Alcohol and Drug Abuse Program (NNADAP)** and **National Youth Solvent Abuse Program (NYSAP)** are a primary network of addiction treatment and prevention programming in place in First Nations and Inuit communities. NNADAP and NYSAP treatment centres include a range of mainstream and culturally relevant approaches. Through these national programs, First Nations and Inuit have access to inpatient, outpatient, and day treatment services, as well as specialized services (e.g., programming for families, youth, solvent abusers, women, and people with concurrent disorders) for people with unique service needs, including those dealing with family issues such as violence.

Health Canada's **Fetal Alcohol Spectrum Disorder (FASD) Mentoring Program** has a mentor work with a woman to help her decide what would make a positive difference in her life, which they set out in a Plan of Action. This could include a better diet, medical care, working with an Elder, freedom from abuse, or support from her family or friends. Mentors have reported the following benefits: change in lifestyle, returning to school, getting a job, reduced child apprehension, increased return of children from care, becoming role models for other moms, increased involvement in community activities, moved to better housing, and stopped or reduced alcohol use.

Health Canada's **National Aboriginal Youth Suicide Prevention Strategy (NAYSPS)** supports initiatives to increase protective factors and reduce risk factors for Aboriginal youth suicide. Projects under the Strategy are diverse and specific to the needs of the communities they serve. While the Strategy does not currently support projects that are directly focused on family violence prevention, communities can choose to direct their NAYSPS funding to this issue. For example, some Regions hold youth and family wellness workshops, family camps, and/or grief and loss training for children and parents.

### Court-Based Responses

The provinces have jurisdiction with respect to both civil and criminal provincial courts. The territories also have similar provincial-level courts. Although superior courts are administered by the provinces and territories, the judges are appointed and paid by the federal government.

**Unified Family Courts** aim to reduce the delays, complexities and costs of the traditional family justice system by providing families access to a single level of court, the provincial superior court, with jurisdiction over all family law matters. These courts comprise a core of specialized judges with extensive family law expertise and offer coordinated links to a broad range of family-centred support services. The federal government appoints and pays the judges of the Unified Family Courts.



Canada
Tools/Processes to Ensure Safety
<p><b>Handbooks/Guidelines</b></p> <p>In 2012, Justice Canada updated <a href="#">Criminal Harassment: A Handbook for Police and Prosecutors</a>, which provides guidelines for the investigation, charging and prosecution of criminal harassment cases (also called "stalking") which is often experienced in the context of family violence.</p> <p><b>Screening for Family Violence</b></p> <p>Under the Supporting Families Fund (SFI), the Federal Government provides \$16 million annually towards provincial and territorial family justice services which include the development of family violence screening tools for triage and referrals.</p>
Coordinating Mechanisms
<p><a href="#">The Family Violence Initiative (FVI)</a> promotes public awareness of the risk factors of family violence and the need for public involvement in responding to it; strengthens the criminal justice, housing, and health systems to respond; and supports data collection, research and evaluation efforts to identify effective interventions. On behalf of the federal government and 15 partner departments, the Public Health Agency of Canada coordinates the Family Violence Initiative.</p>
Key Reports
<p>DEPARTMENT OF JUSTICE CANADA</p> <p><a href="#">An Estimation of the Economic Impact of Spousal Violence in Canada, 2009</a> by Ting Zhang et al (2013).</p> <p><a href="#">Health Impacts of Violent Victimization on Women and their Children</a> by Nadine Wathen (2013).</p> <p><a href="#">Intimate Partner Violence Risk Assessment Tools: A Review</a> by Melissa Northcott (2012).</p> <p><a href="#">Inventory of Spousal Violence Risk Assessment Tools Used in Canada</a> by Allison Millar (2009).</p> <p><a href="#">Making appropriate parenting arrangements in family violence cases: applying the literature to identify promising practices</a> by Peter G. Jaffe, Claire V. Crooks and Nick Bala (2006).</p> <p><a href="#">Topics in Family Law: A Collection of Articles "Family Violence"</a> by Cynthia Chewter with Preface &amp; Checklists by Elizabeth Jollimore Q.C.</p> <p><a href="#">Spousal Abuse Policies and Legislation - Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation</a> (2003)</p>

Canada
<p>PUBLIC HEALTH AGENCY OF CANADA  <a href="#"><i>The Health of Canada's Young People: a mental health focus</i></a> (2012).</p> <p>NATIONAL CLEARING HOUSE ON FAMILY VIOLENCE  <a href="#"><i>Sexual Abuse Information Series</i></a> (2008).</p> <p><a href="#"><i>Aboriginal Women and Family Violence</i></a> (2008).</p> <p><a href="#"><i>Psychological Abuse: A Discussion Paper</i></a> by Deborah Doherty and Dorothy Berglund (2008).</p> <p><a href="#"><i>Violence in Dating Relationships – Overview Paper</i></a> by Katharine D Kelly (2006).</p>
Data Collection
<p>Statistics Canada, Canada's national statistics agency, regularly collects data on family violence and publishes reports through the Canadian Centre for Justice Statistics. The following are recent examples:</p> <p><a href="#"><i>Family Violence in Canada: A Statistical Profile, 2011</i></a> (Juristat, catalogue no 85-002-X, 2013).</p> <p><a href="#"><i>Measuring violence against women: Statistical trends</i></a> (Juristat, catalogue no 85-002-X, 2013).</p> <p><a href="#"><i>Victim Services in Canada 2009/2010</i></a> (Juristat, catalogue no 85-002-X, 2012).</p> <p><a href="#"><i>Victim services in Canada: National, provincial and territorial fact sheets, 2009/2010</i></a> (catalogue no 85-003-X, 2012).</p> <p><a href="#"><i>Family Violence in Canada: A Statistical Profile, 2010</i></a> (Juristat, catalogue no 85-002-X, 2012).</p> <p><a href="#"><i>Family Violence in Canada: A Statistical Profile, 2009</i></a> (catalogue no 85-224-X, 2011).</p> <p><a href="#"><i>Family Violence in Canada: A Statistical Profile, 2008</i></a> (catalogue no 85-224-X, 2009).</p>

Alberta
Legislative Responses
<p><b>Family/Domestic Violence Legislation</b></p> <p>The <a href="#">Protection Against Family Violence Act</a> (PAFVA) contains provisions for obtaining a Protection Order as well as offence provisions for breaching an Order. There are provisions for emergency orders (section 2) as well as Queen’s Bench orders (section 10). PAFVA provides for Warrants permitting entrance (section 10). Potential clauses include no contact, exclusive possession of the home, etc. For a full summary see the <a href="#">PAFVA Guide</a>.</p> <p><b>Family Law Provisions Related to Family Violence</b></p> <p>Under the <a href="#">Family Law Act</a> (FLA), all decisions made with regard to a child, whether by a guardian or by the court must be made in the best interests of the child. The Court is required to “ensure the greatest possible protection of the child’s physical, psychological and emotional safety” and consider all the child’s needs and circumstances, including any family violence. A definition of family violence is provided at sub-section 18(3).</p> <p>The <a href="#">Matrimonial Property Act</a> (MPA) governs the division of matrimonial property when married couples separate or get a divorce. The Court may grant an order, either <i>ex parte</i> or with notice, giving a spouse exclusive possession of the matrimonial home, directing that a spouse be evicted from the matrimonial home, and/or restraining a spouse from entering or attending at or near the matrimonial home (section 19).</p> <p>Other than preventing a spouse from entering, visiting, or being in the matrimonial home, the Court has no jurisdiction under the MPA to limit the conduct or contact (including harassing phone calls made to the matrimonial home) between the spouses.</p> <p><b>Child Protection Provisions Related to Family Violence</b></p> <p>The <a href="#">Child, Youth and Family Enhancement Act</a> is the legal authority in Alberta for providing intervention services when there are concerns that a child or youth is being neglected or abused by their parent or guardian. This includes physical abuse, sexual abuse, neglect, emotional injury and abandonment.</p> <p>For the purposes of this Act, a child is emotionally injured by exposure to domestic violence or severe domestic disharmony (sub-section 1(3)(a)(ii)(C)).</p>
Police
<p><b>Policies and Protocols</b></p> <p>The Family Violence Police Advisory Committee (PAC) has developed Domestic Violence Guidelines for Police Services in Alberta (distributed to all Chiefs of Police in 2009). These Guidelines are currently being updated for distribution in the fall of 2013.</p> <p><b>Police Charge Policies and Procedures</b></p> <p>In all domestic violence occurrences an officer is to lay a charge where there are reasonable</p>

## Alberta

grounds to do so, including:

- Where a person has breached a condition of bail, parole, probation, a peace bond, or an Emergency Protection Order ([\*Protection Against Family Violence Act\*](#)).
- For any offence committed under the *Criminal Code*, including obstruction of justice (e.g., attempts to dissuade the victim from testifying).
- Offences committed under the *Youth Criminal Justice Act*.
- When there is a contravention of a valid order under sections of the [\*Child, Youth and Family Enhancement Act\*](#).

### Bail Procedures

The procedures should provide that in all domestic violence occurrences officers will at minimum, comply with *R v Bleile* (2000) 31 CR (5th) 275 (AB QB) and obtain the following information prior to speaking to bail:

- Whether there is a history of violence;
- When available, the details of previous domestic violence charges and convictions to be included in police report;
- Whether the victim fears further violence and the basis of that fear;
- The victim's opinion on the likelihood that the suspect will obey a term of release, particularly a no contact order; and
- Whether the suspect has a history of alcohol or drug problems or mental illness.

The Family Violence Investigation Report (FVIR) will assist in satisfying these criteria.

### Release from Custody

Procedures should provide, *inter alia*, that police speak to the victim before deciding whether to release the suspect.

When the accused is being released from custody the following conditions should be considered:

- Abstaining from communicating, directly or indirectly, with the victim or other specified person(s);
- Abstaining from going within 200, 500 or 1000 meters of any specified places such as the victim's residence and place of work;
- Abstaining from consuming alcohol or other intoxicating substances or drugs, except in accordance with a medical prescription;
- Abstaining from possessing firearms, and surrendering any license, registration certificate or authorization for firearms;
- Reporting at specified times to a peace officer or other designated person; and
- Other conditions as appropriate to the individual case (consult the victim).

Procedures should include that the suspect be required to attend court within seven days of the initial occurrence, wherever possible.

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### Informing Complainants

- Amendments to the [Corrections Act](#) (2007), provides that victims of crime are entitled to receive information regarding an offender who caused them harm. Correctional Centres should be notified of high-risk files in order to:
  - Ensure proper and timely notice to victims upon release of accused;
  - Follow up on complaints received from a victim of harassing/threatening telephone calls; and
  - Complete casework where the accused is subsequently sentenced.
- Personal information of the victim irrelevant to the charge should not be disclosed, recognizing however, that disclosure obligations imposed by law may force the release of some personal information obtained from the victim to the accused; and
- If a police officer believes an accused should be flagged, or considered for a Dangerous Offender or Long Term Offender designation, contact the National Flagging Coordinator, Alberta Justice, at (780) 427-6064.

### Case Management Strategies

The Family Violence Investigative Report (FVIR) is a mandatory report, designed to be completed within 12 hours of the investigation of intimate partner domestic incidents. Intimate partner violence includes all heterosexual and same sex relationship incidents involving married, cohabitating, dating, estranged/former partners or persons who are the parents of one or more children, regardless of whether they have lived together at any time. The “Officer’s Notes” sections are to be completed where applicable and used for preparing the police report.

In extremely high-risk cases, a referral should be made to the Integrated Threat and Risk Management Centre (I-TRAC) the provincial, multidisciplinary threat assessment unit dedicated to reducing and preventing relationship violence and stalking.

Where the safety of the victim or children is a concern, police officers, with the consent of the victim, should consider applying for an Emergency Protection Order under the [Protection Against Family Violence Act](#), whether or not criminal charges are laid (section 6).

### Requirements for Cooperation or Coordination

In every case where the safety of a child is concerned police officers shall contact Human Services.

### Integrated Threat and Risk Assessment Centre (I-TRAC)

I-TRAC is a joint forces multi-disciplinary unit that provides law enforcement and other criminal justice agencies with threat assessment services and proactive approaches to reduce acts of targeted violence within their communities. I-TRAC services include: assessing the level of risk an individual may pose to commit an act of targeted violence, providing case management strategies, training, safety planning, expert testimony and facilitating access to external

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agencies including mental health, specialized law enforcement and other criminal justice units.

### **Requirements for Cooperation or Coordination**

The Domestic Violence Police Guidelines contains the following suggestions with respect to collaboration and coordination recognizing that capacity issues may affect the degree to which a police agency can participate:

- Every police service is encouraged to work in partnership with the following community service providers, systems and agencies:
  - Local Crown Prosecutors' office;
  - Probation;
  - Victim's Services;
  - Alberta Human Services;
  - Municipalities;
  - Women's shelters;
  - Community representatives responsible for issues related to domestic violence; and
  - Other local service providers.

Every police service is encouraged to establish a domestic violence coordinating committee with the above community service providers, systems and agencies, for the purposes of:

- Defining roles and responsibilities of organizations involved in providing services to victims;
- Providing assistance to victims and children in cases which do not proceed to court, or where no charges have been laid;
- Establishing criteria for case and/or systems review;
- Subject to privacy requirements, sharing case specific information among relevant member organizations to provide a coordinated response;
- Monitoring and evaluating the responses by organizations;
- Reviewing the availability of services to victims;
- Risk assessment and safety planning;
- Developing local community strategies and responses to address and prevent repeat victimization, including promoting and supporting follow-up with victims of domestic violence; and
- Developing initiatives/programs for prevention and early intervention.

### **Other Specialized Teams**

Specialized police teams exist in Medicine Hat, Calgary, Edmonton, Lethbridge and Camrose. The RCMP also has a number of specialized domestic violence response teams, units or coordinators, including in Westaskiwin, Red Deer, Hobbema – Maskwacis, Sherwood Park, Grande Prairie, Fort McMurray and Airdrie.

<h2 style="text-align: center;">Alberta Crown</h2>
<p><b>Policies</b></p> <p>Crown prosecutors are guided in IPV cases by the <a href="#">Domestic Violence Guideline</a>. It includes extensive direction to prosecutors relating to treatment of cases, victims, release/bail, sentencing, etc.</p> <p><b>Protocols</b></p> <p>Alberta Justice and Solicitor General recently revised the <a href="#">Domestic Violence Handbook</a> (2013) which contains direction and guidance to Police and Crowns. Crowns are also assisted by the <a href="#">Child Abuse Handbook</a> which is also currently being updated.</p> <p>Additionally, all criminal justice stakeholders are guided by the <a href="#">Victims of Crime Guideline</a> and <a href="#">Protocol</a> regarding the treatment of victims.</p> <p>Other Prosecution Protocols:</p> <ul style="list-style-type: none"> <li>• <a href="#">Parental Child Abduction</a></li> <li>• <i>Protection Against Family Violence Act</i> (PAFVA) Protocol</li> </ul> <p><b>Requirements for Coordination and Cooperation</b></p> <p>Prosecutors are required to advise Human Services in any case where there are children in a relationship where there has been violence.</p> <p>Prosecutors work closely with police and various agencies involved in Domestic Violence Courts.</p>
<h2 style="text-align: center;">Child Protection</h2>
<p><b>Policies</b></p> <p><b>Casework Practice Model</b>, which was implemented province-wide in 2008, builds on leading practices; gives children, youth and families more input into decisions; and helps caseworkers create more effective, strength-based solutions that build relationships with families. The model collaborates with the resources and services working with families to achieve outcomes that promote safety and permanency.</p> <p>The <b>Child Intervention Standards</b> do not replace provincial acts, regulations or policy but are intended to complement or supplement those standards that are embedded within them as well as in any statutory agreements.</p> <p><b>Protocols</b></p> <p><b>Child Abuse Reporting Procedures Protocol</b> between Region 2 Women’s Shelters and Southeast Alberta Child and Family Services Authority – Region 2.</p>

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**Intimate Partner Violence Treatment Services (IPV) Linking Protocol** between the City of Edmonton Community Services and Edmonton John Howard Society, Edmonton and Area Child and Family Services-Region 6, Edmonton and Area Community Corrections, Edmonton General Prosecutions, and Edmonton Police Service.

**Building a Collaborative Community Response-Protocol** between Edmonton Women's Shelters and Edmonton and Area Child and Family Services –Region 6.

## Service-Based Responses

### Victim Services

Police-based victim services units are available to deliver services to victims of crime in all parts of Alberta.

Victim services in Alberta are provided by 76 police based victim services units operating out of 139 service delivery areas. These individual non-profit agencies are funded through the Victims of Crime Fund. They are co-located with municipal police services and RCMP detachments throughout Alberta. They deliver ongoing, frontline services to victims of crime that includes providing information about available programs and services, updates on the status of court cases, court preparation and court accompaniment. Victim Service Units provide information, assistance and support to victims throughout the police investigation and any subsequent court proceeding. Victims of crime are referred to Victim Services Units by police. Collaboration occurs with many community partners to provide education and increased awareness.

An additional 35 funding agreements with community agencies and organizations are in place to deliver specialized assistance and programming to address gaps for vulnerable victims. Community Victim Service Agencies can be accessed via self-referral by a victim, police referral or referral from another community agency based on victim need. These community based programs target the unique needs of human trafficking victims, victims of elder abuse, domestic violence, child abuse, sexual assault, and victims from identified ethno-cultural groups.

The Edmonton and Calgary Police Services also provide **Child At-Risk Response Teams (CARRT)** in situations where children are considered at risk.

**Zebra Child Protection Centre** has been lending strength to victims of child abuse within Edmonton.

There are nine **Sexual Assault Centres** across Alberta. Sexual assault Centres provide a safe place for healing to begin for those who have been victimized, both young and old. Services include: crisis intervention counselling (individual and group), education and awareness programs aimed at prevention, and advocacy and support for survivors as they deal with this serious crime.



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**Calgary Connect – Family and Sexual Abuse Network** operates a confidential 24-7 telephone hotline and a website with links and surveys that are dedicated to getting Calgarians connected to the relationship and healing resources they need.

**Fleeing Abuse Benefit (financial assistance)** – Individuals who feel they need to get out of a family violence situation can apply to any Alberta Works office for support.

### **Edmonton John Howard Society**

**Family Violence Prevention Centre – Family Violence Prevention Centre** offers information, referrals, crisis intervention, safety planning, and advocacy. Services are also available in Mandarin and Cantonese.

**Victims Assistance** offers court preparation and support for victims of family violence.

**YWCA** offers individual and family counselling as well as support groups for abused women. They also have groups for women wanting to learn how to control their anger and groups for children and youth exposed to family violence.

**Elizabeth Fry Society – Girls Empowered and Strong Program** is for girls 13-17 that empowers them to make strong positive choices for their futures. Sessions include healthy relationships, bullying and dating violence.

**Legal Aid, Family Law Offices– Emergency Protection Order Project (EPOP) (Edmonton & Calgary (and surrounding areas))** provides clients with staff lawyers to obtain and confirm protection orders. The Program also provides ongoing information, risk assessments, and safety plans to victims of family violence. The service is free and there are no eligibility requirements.

### **Shelters**

The [\*\*Alberta Council of Women's Shelters \(ACWS\)\*\*](#) currently has 43 member shelters. Over \$27 million is provided annually for shelters for women:

- Core operational funding for 29 women's emergency shelters = 619 funded beds;
- Programming in two-second stage shelters (\$1.1M);
- Fee for service agreements with four First Nations on-reserve shelters (\$800,000);
- Two community counselling and outreach contracts.

In addition, over \$0.328 million in program funding is offered to community Northern Haven Support Society.

Alberta Justice and Solicitor General Victims Services currently provide funding to A Safe Place Shelter in Sherwood Park, Alberta for the position of Victim Support Worker. This position provides information, emotional support and referrals as well as court support and

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accompaniment to domestic violence victims. This position also has specialized training in service provision to human trafficking victims as well as shelter for victims. A Safe Place accepts victims from a variety of referral sources including police, victim services, government agencies and self-referred victims.

### Programs for Children Exposed to Family Violence

Alberta Justice and Solicitor General Victims Services provides funding for the Canadian Society for the Investigation of Child Abuse which has developed an on-line court preparation program that targets children, teens and parents supporting children and teens throughout the court process. There is also an in-person version of the program based in Calgary. The on-line courts support program can be accessed through a local victim services unit or by any victim in the general public who has access to the internet.

Alberta Justice and Solicitor General fund two child advocacy centres in Alberta. The Caribou Centre in Grande Prairie and the Zebra Centre in Edmonton provide comprehensive support to children and their non-offending parent including, forensic interviewing for police, counselling, court support and accompaniment. Access to Child Advocacy Centres is via police referral.

Under the ***Victims of Crime Act***, the Minister has appointed a Director who is responsible for providing victims and their families with general information concerning services available for victims, how the justice system operates, and overall administration of the Act. The Director is also responsible for providing victims who feel that they have not been treated in accordance with the principles of the Act with information on how to resolve their concerns.

Two core programs operate under the Act – a financial benefits program for eligible victims who have suffered injury or death as a result of a violent crime, and a grant program that provides funding to eligible groups and organizations offering information, assistance and support to victims throughout their involvement with the criminal justice process.

[The Victims of Crime Protocol](#) – What Victims Can Expect from the Criminal Justice System is a reference manual for victims of crime. The Protocol assists victims by outlining what role each component within the criminal justice system plays from the time a crime is reported through to the police investigation and court proceedings. Information on provincial and federal corrections and the National Parole Board is also included. In addition, the Protocol explains what is expected of victims when dealing with the criminal justice system.

### Abusive Partner Programs

**Edmonton Family Violence Centre**

**Changing Ways – Family Violence Program** (men only).

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### City of Edmonton Community Services

**Men's Support Services** offers counselling for individuals and group programs for men who want to heal from difficulties in their past and develop skills to cope with current problems.

**Aboriginal Consulting Services** offers groups for men, women and families impacted by family violence.

### Supervised Access

**Safe Visitation** provides children in families experiencing family violence with a safe environment to visit with a non-custodial parent. Based on research that demonstrates the importance of children maintaining positive contact with both parents after they separate, safe visitation provides children a structured place and the necessary support to have safe, supervised visits with the parent. Sites across Alberta include: Edmonton, Calgary, Whitecourt, Red Deer, Lethbridge, Fort McMurray and Grande Prairie.

### Parent Education/Information

**Parent Link Centres** are community planned and community based. They are centres of excellence that provide parents and families with comprehensive support in the form of four core services:

- Early childhood development and care;
- Parent education;
- Family support;
- Information and referrals.

### Other Services

[Human Services website](#)

**24-7 toll free Family Violence Info Line 1-800-310-1818**

### Community Initiatives Against Family Violence (CIAFV) – Edmonton and Area

CIAFV developed out of a community need for more collaboration of services, increased training opportunities on family violence and bullying and a need for a unified voice and language on family violence and bullying issues. Since its inception, CIAFV has become a strong voice for Edmonton and area service providers and government departments that are working collaboratively to end family violence and bullying in our communities. CIAFV activities include training and professional development for professionals working in the field of domestic violence, building a response within the larger community and providing support to serving agencies, protocol development within and between agencies, and project teams to address areas of specific interest.

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The **Calgary Domestic Violence Collective** is a collaboration of social profit agencies, funders and governmental bodies that work to address the issue of domestic violence. The Collective's goal is to create a collaborative community response to end domestic violence.

### **TODAY Centre (Edmonton)**

The Today Family Violence Help Centre (Today Centre) is the result of considerable collaborative planning efforts beginning in 2004 by representatives from Edmonton and area community-based organizations, the Alberta government, and the City of Edmonton. Consultation occurred with some 65 different family violence stakeholders in the Capital Region including shelters, organizations, and Aboriginal and ethno-cultural communities. As a result of the concerted, dedicated effort of the collaborative, Today Centre began offering services in October 2009.

The service delivery model is a collaborative, community response that draws upon co-located, centralized services and community-based services not co-located in the centre. The Today Centre provides a safe, integrated and centrally located hub of support in response to the essential needs of those affected by domestic violence. The goal is to reduce the barriers facing those affected by domestic violence as they attempt to navigate what they often see as a dispersed and complex system.

## Court-Based Responses

### **Domestic Violence Court**

The Domestic Violence Courts across Alberta provide the focal point for many of the family violence initiatives.

#### **Calgary Domestic Violence Court (HomeFront)**

- The goal of HomeFront is to reduce domestic violence by linking victims and offenders quickly and effectively with specialized counselling and treatment services. The project was developed with extensive community consultation to improve co-ordination among law enforcement, criminal justice and the social service system.
- With its dedicated Crown prosecutors and staff, the Calgary Domestic Violence Court was the first initiative in Alberta of this scope to address the broad issues of family violence.
- The first appearance court opened in 2000 while the domestic violence trial court opened in March 2005.
- RESOLVE/Synergy completed a project evaluation which indicated that since HomeFront was introduced, the number of offenders charged with new domestic violence offences was reduced from 34% to 12%. When offenders completed treatment as part of the HomeFront Programs, the rate of recidivism was reduced to 5.7%. A subsequent evaluation was completed in 2010 and can be found at the following link: [HomeFront Evaluation-Final-Report-March-2011](#).
- The Domestic Violence Court sits five days per week; deals with all matters with one trial

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day; and has ten Crown prosecutors. Judges rotate.

### **Edmonton Domestic Violence Court**

- There is one courtroom dedicated to hearing only domestic violence matters. It sits as a docket court three mornings per week and deals with all types of domestic violence matters, bail and summary disposition [guilty pleas and sentencing]. When it is not a docket courtroom, it sits as a trial courtroom for shorter domestic violence trials (sometimes referred to as “low complexity”).
- There are 12 Crown prosecutors in the Family Violence section who handle the more serious matters. Judges rotate.

### **Lethbridge Domestic Violence Action Team**

- Lethbridge Crown prosecutors worked with police, Correctional Services, treatment and support providers, and victims to form the Domestic Violence Action Team in 1999.
- Eleven protocols outline policy and procedures for every step of the response process, from intervention through rehabilitation to ensure a better response to domestic violence for both victim and perpetrator by creating a coordinated, integrated strategy.
- On March 2, 2004, the Lethbridge Domestic Violence Docket Courtroom heard its first matter.
- The Domestic Violence Docket Court sits one day per week, and has trials one day per week with a second day if needed. It has one Crown prosecutor and one support staff. Judges rotate.

### **Medicine Hat Domestic Violence Court**

- On October 6, 2005, the court started sitting one afternoon per week to address first appearance and domestic violence trials in Medicine Hat Provincial Court.
- This court demonstrates collaboration with other ministries, police, community partners and the judiciary in making these specialized courts a reality.
- The Domestic Violence Docket Court sits one morning per week and has one dedicated Crown prosecutor and one back-up Crown. Judges rotate.

### **Red Deer Domestic Violence Court**

- Starting October 6, 2005, half a day per week was assigned to domestic violence first appearance cases in Red Deer Provincial Court.
- The Domestic Violence Docket Court sits one morning per week and has two dedicated Crown prosecutors. Judges rotate.

### **Fort McMurray Domestic Violence Court**

- On January 6, 2006, the court started sitting one afternoon per week to address first appearance and resolution for domestic violence cases in the Fort McMurray Provincial Court.

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- The Domestic Violence Docket Court sits one day per week and has one dedicated Crown prosecutor and one back up Crown. Judges rotate.

### **Airdrie Domestic Violence Court**

- On May 4, 2006, the Domestic Violence Court in Airdrie started hearing cases and it officially opened on June 30, 2006.
- This is the first circuit court to provide specialized family violence processes.
- The Domestic Violence docket matters and trials are blended with other matters in two court days per week. One specialized Crown consults with the RCMP family violence coordinator before court. Judges rotate.

### **Grande Prairie Domestic Violence Court**

- On February 14, 2007, the Grande Prairie Domestic Violence Court officially started hearing docket matters.
- The Domestic Violence Docket Court sits two half days per month. There is no designated Crown. Judges rotate.

### **Provincial Family Violence Program**

- Funding is provided from Alberta Health to Alberta Health Services (AHS) Addictions and Mental Health to support the provision of family violence treatment services for mandated offenders.
- Treatment services are provided collaboratively by approved community service providers and AHS Addiction Services across the province in accordance with the Provincial Family Violence Treatment Program Standards. Forensic Assessment and Community Services (FACS) in Edmonton and Forensic Assessment and Outpatient Services (FAOS) in Calgary provide service to higher risk offenders.

### **Linking between Civil and Criminal Justice Systems in Domestic Violence Cases**

There currently is no coordinated link between child, family, and criminal courts. Linkages between the separate court systems are done manually in individual IPV cases. There is an *ad hoc* working group (Court Intersection Working Group) that is looking at the issue.

## Tools/Processes to Ensure Safety

### **Structured Risk Assessments/Checklists**

#### **Domestic Violence Handbook for Police and Crown Prosecutors in Alberta**

The *Domestic Violence Handbook for Police and Crown Prosecutors in Alberta* was created in 2005, and updated in 2009 and 2013, as a compilation of the research, best practices, and knowledge that experts in the area of family violence would agree are essential to an effective response by the criminal justice system.

The Handbook has been provided to each police officer and Crown prosecutor in the province. Handbooks were also distributed to Victim Services Units, Women's Emergency Shelters,

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Probation Officers, Child Welfare Authorities, and other stakeholders that expressed an interest in obtaining a copy of the Handbook. Copies were sent to the Heads of Prosecution across Canada. The Handbook is available on-line.

### Strategies for Safety Guide

The *Strategies for Safety: Considerations for Individuals experiencing Family Violence Guide* was created to assist police officers and front line responders who deal with individuals impacted by family violence. Upon completion of the mandatory Family Violence Investigation Report (FVIR) with the individual, police officers will be aware of the risk factors for that particular victim. Addressing these factors by ensuring the individual is safe is the critical next step. The *Strategies for Safety* guide provides specific “need to know” information and questions which will guide police officers and front line responders when assisting individuals impacted by family violence. Additionally, there are four Quick Reference pages that provide individuals with take home information on how to stay safety, depending on their current situation.

*Strategies for Safety* Pilot commenced on February 1, 2012, and ran until April 30, 2012. Several municipal police and RCMP agencies in Alberta participated in the pilot. They were asked to employ the *Strategies for Safety* resources when assisting individuals impacted by family violence. The results of the pilot evaluation showed *Strategies for Safety* as a useful resource for police and front line responders involved in safety planning with individuals impacted by family violence. The *Strategies for Safety Guide* was distributed to all police services and Victim service units in Alberta in early April 2013.

**Family Violence Investigation Report (FVIR)** – is a mandatory report used by front-line police responders, described above.

The FVIR was developed to identify the complex factors associated with domestic violence investigations in a manner that will raise the awareness of front-line police responders to the unique dynamics and contributing factors in domestic violence incidents.

The report assists police in gathering the most critical information within the first 12 hours of attending a family violence complaint and also serves to identify safety planning considerations as well as suspect management strategies. The FVIR consists of 19 questions which provide police with a quick, but comprehensive checklist of behaviours alerting them to situations that may warrant specific follow-up action. It will also supplement the “Show Cause” report and court brief as well as provide Crown Prosecutors with a succinct overview of the case.

At this point the document is only shared with probation and Crown.

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### **Service Planning Instrument (SPIN)/Youth Assessment and Screening Instrument (YASI) –**

These are generalized risk assessment tools and are not specific to domestic violence. However, when scored according to specific guidelines for domestic violence offences they can be used to assess risk levels for domestic violence offenders. SPIN/YASI is used by Probation Officers on all sentenced offenders who's orders exceed three months.

**Probation Officer Domestic Violence Coordinators** – There is one Domestic Violence Coordinator from each of the Adult Community Corrections offices in the Edmonton District. These are Probation Officers who maintain targeted domestic violence caseloads. These individuals meet as a group quarterly, meet regularly with the local domestic violence service/treatment providers and are responsible for disseminating information to generalized Probation staff regarding domestic violence initiatives, processes etc.

Edmonton and Area Community Corrections is a member of the **Community Initiatives Against Family Violence (CIAFV)'s Intimate Partner Violence Treatment Linking Protocol**. CIAFV supports agencies and systems to develop internal agency family violence protocols and then develop Linking Protocols that link agencies as a means to work towards a collaborative, coordinated community response to family violence in Edmonton.

The Chief Probation Officer from the Edmonton area is a member of the **Provincial Domestic Violence Police Advisory Committee (PAC)**. This committee has representatives from, Alberta Human Services, RCMP, Municipal and First Nations police services, Alberta Council of Women's Shelters as well as Alberta Justice and Solicitor General.

**Integrated Threat and Risk Assessment Centre (I-TRAC)** – consists of police members from the RCMP and Calgary Police Service, Edmonton Police Service, Medicine Hat Police Service and Lethbridge Regional Police Service (threat assessors), teamed with a Crown prosecutor, a child protection expert, a family law expert, as well as a consulting psychologist and psychiatrist.

**Spousal Assault Risk Assessment (SARA)** – is used by police, RCMP, and I-TRAC.

**Stalking Assessment and Management (SAM)** – is used by police, RCMP, and members from I-TRAC.

**Risk of Sexual Violence Protocol (RSVP)** – is used by members from I-TRAC.

**Screening Aid for Family Violence (SAFV)** – is used by child protection workers. Parallels the police FIVR to augment the safety assessment.

**Safety Phase Assessment** – is used by child protection workers. The safety phase continues the assessment of a child's safety and intervention needs when intake has determined that there are reasonable and probable grounds to believe that a child may be in need of intervention.



## Alberta

### Screening for Family Violence

#### Family Justice Services (FJS):

- A screening process is used by all Provincial Family Justice Services personnel to screen for risk of violence to family members when the family accesses services related to a court application, including: emergency protection orders, family mediation, family court counsellors, child support resolution, Parenting After Separation (PAS) and Parenting After Separation High Conflict (PASHC) courses and Brief Conflict Interventions BCI (under Queen's Bench Practice Note 7 referrals and *Family Law Act* Part 4 Section 98 referrals) and the Focus On Communication In Separation (FOCIS) course. PAS and FOCIS program materials contain family violence information sheets, self assessment tools, and resource lists containing contact information for local and provincial assistance.
- Risk is flagged on the internal FJS client file and imminent risk is reported to the police if it has not been reported already. Workers engage at-risk families in safety planning and make referrals to appropriate resources.
- FJS has introduced the *Family Justice Services Safety Screen*, an evidence-based, standard screening tool that was developed by Justice Services in British Columbia. Family mediators have received training and are currently using the tool with each mediation client. Training will occur during 2013 for all other FJS staff and also with Legal Aid staff who are involved with dispute resolution.

## Coordinating Mechanisms

### Coordinating Committees

**PAFVA Advisory Committee** brings together a multi disciplinary group consisting of government staff, policing services and community to share expertise and experience using the *Protection Against Family Violence Act and Regulations* to guide and make recommendations to ensure the application of the *Act* continues to occur in ways that maintain and focus on continuous improvement.

The **Provincial Family Violence Treatment Program (PFVTP) Committee** was established to provide a formal mechanism to guide and lead the coordination of the Program, address issues as they arise, and to share learning and garner advice. In November 2009, a decision was made to replace this committee with two separate committees: the **Provincial Family Violence Treatment Program Steering Committee** and the **Provincial Family Violence Treatment Program Community Coordinating Sub-committee**. The sub-committee focuses on the coordinated community response and service delivery (i.e. treatment approaches, partner/safety checks, sharing best and promising practice, etc.).

The PFVTP Community Coordinating Committee was established to guide and lead the coordination of the program, to garner advice and share learning, and address issues as they arise. The focus of this committee is service delivery (for example, treatment approaches, partner safety protocols, promising practices) and the coordinated community response. The

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committee also fosters relationships, support, and partnerships within and across communities and zones.

The committee respects the ongoing collaborative work at the local level and the authority and responsibility of the local partnerships. The committee also recognizes the governance and accountability role of the Provincial Family Violence Treatment Program, Community Treatment Initiatives, Addiction and Mental Health, Alberta Health Services. Membership includes the manager of Community Treatment Initiatives (Chair), Alberta Health Services staff, community agencies funded by AHS, and HomeFront.

### **Family Violence Police Advisory Committee (PAC)**

Chaired by the Public Security Division of Alberta Justice and Solicitor General, PAC is comprised of representatives from RCMP, municipal, and First Nations Police services, Alberta Council of Women's Shelters, Alberta Justice and Solicitor General and Alberta Human Services. The committee meets monthly to discuss issues of protection as well as issues within the criminal justice system. It was through the efforts of this committee that the Domestic Violence Guidelines for Police and the FVIR were developed.

### **Interdepartmental Committee on Family Violence and Bullying (ICFVB)**

Five partnering ministries are working together to provide a coordinated provincial response to the prevention of family violence and bullying in Alberta:

- [Human Services](#) (coordination lead);
- [Aboriginal Relations](#);
- [Education](#);
- Health including [Alberta Health Services](#) (formerly AADAC and Alberta Mental Health Board); and
- [Justice and Solicitor General](#).

Partnering ministries implement the five key areas of action in the *Strategy for the Prevention of Family Violence and Bullying* through shared strategies and a [Cross-Ministry Action Plan 2009-2012](#). Over \$65 million was provided across government in 2011-12 to address family violence and bullying issues.

## British Columbia

### Legislative Responses

#### Family Law Provisions Related to Family Violence

British Columbia's *Family Law Act* was implemented on March 18, 2013.

The Act increases the ability of the court to deal with family violence by:

- defining family violence;
- legislating risk factors considered in parenting cases involving violence; and
- making the safety of children a key goal of the best interests of the child test. The Act makes the best interests of the child the only consideration when decisions affecting the child are made.

In addition, it creates a new type of order – a protection order – to replace the existing *Family Relations Act* restraining orders. Protection orders will limit contact and communication between family members where there is a safety risk.

To ensure there is a consistent and effective approach in cases where safety is at risk, breaches of protection orders under both the *Family Law Act* and the *Child, Family and Community Services Act* will be a criminal offence via section 127 of the *Criminal Code*.

The Family Law Act regulations also provide for new training and practice standards for family dispute resolution professionals. Under the *Family Law Act*, all family dispute resolution professionals, including lawyers, mediators, parenting coordinators or arbitrators who are working with families to resolve their family law dispute, must assess for family violence to ensure the process used is appropriate. All mediators, parenting coordinators and arbitrators will be required to meet minimum training and practice standards including a minimum of 14 hours of training in family violence. The Law Society of British Columbia has also provided similar requirements for lawyers acting in these capacities.

#### Child Protection Provisions Related to Family Violence

The British Columbia *Child, Family and Community Services Act* (CFCSA) delegates child protection workers to assess reports, provide support services, provide a family development response or investigate as needed and collaborate with other service providers, such as police, school personnel, health practitioners, etc. to help ensure the safety and well-being of children. Other legal interventions which may be applied to family violence cases include, but are not limited to:

- Offer support services to parent(s) and children;
- Applications for a CFCSA section 28 Protective Intervention Order to protect a child from contact with someone or a section 29 Supervision Order providing child protection workers the authority to supervise the care of the child, breaches of which are enforceable under section 127 of the *Criminal Code*;
- Section 8 agreements under the CFCSA where a friend or family member not involved with the violence is given care for any children;

### British Columbia

- Under section 30 of the CFCSA, the authority to remove a child if their health or safety is in immediate danger, or there is no other less disruptive measure to protect the child; and,
- Authority for police to enter a premise to ensure the safety and well-being of a child or youth.

### Police

#### Policies

- [Violence Against Women in Relationships \(VAWIR\) Policy](#) – is a provincial policy framework;
- RCMP “E” Division Violence in Relationships (VIR) Policy.
- Government of British Columbia – Model Domestic Violence Operations Policy.
- Municipal Police Department Domestic Violence Policies.

#### Protocols

- [VAWIR Policy](#) including the *Protocol for Highest Risk Cases*.  
The VAWIR policy is a comprehensive provincial policy framework which sets out the roles and responsibilities of service providers across the justice and child welfare system that respond to domestic violence cases including Police, Crown counsel, Corrections, Victim Services, Ministry of Children and Family Development, Court Services, Family Justice Services, and the Family Maintenance Enforcement Program.

The *Protocol for Highest Risk Cases*, included in the VAWIR policy, outlines the responsibilities of justice and child welfare system partners for the delivery of a coordinated response to domestic violence cases designated by police as being highest risk. The protocol emphasizes the importance of the timely sharing of information in these cases, which may include the sharing of:

- Risk assessment findings;
- Court outcomes including bail and release conditions;
- Breaches of conditions; and
- Other relevant information pertaining to the accused/offender or victim.

Key protocol partners include Police, Crown counsel, Corrections, Victim Services and Child Protection Workers.

- [Referral Policy for Victims of Power-based Crimes: Family Violence, Sexual Assault, and Criminal Harassment](#)

This policy requires police and police-based victim service programs to refer all victims and survivors of power-based crimes to community-based victim service programs in an appropriate and timely manner.

- [Safety Issues Protocol \(SIP\)](#) between RCMP “E” Division and the Community Coordination for Women’s Safety (CCWS) Program. The SIP allows community-based responders (e.g. victim service programs, transition house programs, etc.) who have

### British Columbia

concerns related to the RCMP that may be affecting a women's safety, to relay those concerns to the RCMP in order to address them in a constructive manner at the local level.

- In 2009, the Police Services Division began the development of a comprehensive training project for police who investigate domestic violence. Course content development included input from police experts across British Columbia, the Ministry of Children and Family Development, Victim Services, Crown, Community Corrections, Community Agencies, Protection Order Registry and the Bail Options Website. The online course called *Evidence-based, Risk-focused Domestic Violence Investigations*, promotes continual risk assessment in domestic violence investigations. This course is mandatory for police and since its launch, over 8,600 frontline police officers and supervisors in British Columbia have taken it. All new Judicial Institute of British Columbia police recruits and RCMP cadets are required to take this course. The course is also being adopted in at least four other territories and provinces across Canada.
- A second course in this series, called *Assessing Risk and Safety Planning*, was launched in July 2013. It is being developed using the same inter-ministerial and interagency collaboration practices as the first course. This online course introduces a standardized template for writing risk-focused Reports to Crown Counsel (RCCs). Specialist training on more structured risk assessment processes (e.g. B-SAFER) is also available to police officers seeking advanced training in this area.

### Crown

#### Policies

- [SPO 1 Spousal Violence Policy – Crown Counsel Policy Manual](#)  
This policy reflects the key aspects of the VAWIR policy (see above) concerning cross-agency coordination and communication, as well as management strategies for highest risk cases. It reflects a current understanding of the dynamics and risks of domestic violence and the needs of victims.
- [Crown Counsel Policy Manual](#).

#### Protocols

- [VAWIR Policy](#) including *Protocol for Highest Risk Cases* – see above.

### Child Protection

#### Policies

- [Best Practice Approaches: Child Protection and Violence Against Women](#).
- *Chapter 3 – Child Protection Response* policies.
- [VAWIR Policy](#) – Provincial policy framework – see above.

#### Protocols

- [VAWIR Policy](#) including *Protocol for Highest Risk Cases* – see above.

British Columbia
Service-Based Responses
<p><b>Victim Services</b></p> <p>In British Columbia, the majority of victim service programs funded by the provincial government are contracted to local government and non-profit organizations. There are three main types of victim service programs:</p> <ul style="list-style-type: none"> <li>• Police-based victim service programs;</li> <li>• Community-based victim service programs; and</li> <li>• Victim court support programs.</li> </ul> <p>Victim service programs focus on five major areas of service delivery:</p> <ul style="list-style-type: none"> <li>• Critical incident response;</li> <li>• Criminal justice information and support;</li> <li>• Safety planning;</li> <li>• Information and referrals; and</li> <li>• Emotional and practical support.</li> </ul> <p>Services are free of charge.</p> <p><b>Shelters</b></p> <p>British Columbia funds a network of transition house programs (shelters) that includes three main types:</p> <ul style="list-style-type: none"> <li>• Transition house programs;</li> <li>• Safe homes; and</li> <li>• Second-stage housing programs.</li> </ul> <p>Shelters are operated by non-profit community organizations and are typically open to women and children who have experienced violence or are at risk of experiencing violence. Services are free of charge.</p> <p><b>Programs for Children Exposed to Family Violence</b></p> <p>British Columbia funds a number of Children Who Witness Abuse (CWWA) counselling programs across the province for children aged 3-18 who have been exposed to domestic violence in their homes. These programs also provide services to non-offending parents/caregivers. Services are operated by non-profit community organizations and are free of charge.</p> <p><b>Abusive Partner Programs</b></p> <p>The British Columbia Corrections Branch operates a comprehensive Family Violence Prevention Program that is delivered to medium and high risk sentenced spousal assault offenders in custody and in the community. The program includes a 10 week pre-treatment Respectful Relationships (RR) module delivered by Corrections staff, followed by a 17 week Relationship Violence Program (RVP) module delivered by contracted service providers. Evaluation results</p>

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indicate that when delivered in the community, participation in Respectful Relationships followed by the Relationship Violence Program, reduced spousal assault recidivism by up to 50% over a two year tracking period.

### Supervised Access

The Ministry of Children and Family Development may provide supervised access for parents whose children are in the care of the ministry. For the public at large, supervised access is available through community organizations typically on a fee-for-service basis.

### Parent & Child Education/Information

Numerous publications are available online through the provincial [Victim Services website](#) as well as the province's dedicated [Domestic Violence website](#). Information is also available through the Legal Services Society, Justice Education Society and Clicklaw.

### Other Services

- VictimLink BC Helpline – is a confidential, anonymous, multilingual 1-800 helpline that operates 24 hours a day, 7 days a week. VictimLink BC provides information and referrals to all victims of crime and immediate crisis support to victims of family and sexual violence.
- Crime Victim Assistance Program – is a statutory program that provides financial assistance and other benefits to eligible victims of violent crime, immediate family members, and witnesses.
- Victim Notification Program/Victim Safety Unit – Provides registered victims with ongoing and timely updates about their case and notification of changes to the custodial status of offenders.
- Stopping the Violence Counselling Programs – Provide individual and/or group counselling for women who have experienced childhood abuse, sexual assault or violence in their relationships.
- Outreach/Multicultural Outreach Programs – Identify and connect women in crisis and their dependent children with the supports and services they need through referrals, accompaniment, advocacy and local transportation.
- Priority Placement Program – This program, operated by BC Housing, supports low-income women who have experienced violence with getting priority access to subsidized housing in BC Housing developments.
- Employment Program of British Columbia – Introduced in April 2012, this program amalgamates a number of different employment programs under a single umbrella. Survivors of violence or abuse are one of eight specialized populations that are receiving services through the program.

British Columbia
Court-Based Responses
<p data-bbox="186 283 1224 317"><b>Linking between Civil and Criminal Justice Systems in Domestic Violence Cases</b></p> <ul data-bbox="240 323 1422 785" style="list-style-type: none"> <li data-bbox="240 323 1422 590">• Protection Order Registry (POR) – The POR is a confidential database containing all civil and criminal protection orders issued in British Columbia. The goal of the registry is to contribute to the reduction of violence against women, vulnerable adults, youth and children through support of the enforcement of civil and criminal protection orders. Protection orders issued in British Columbia courts or by the police are sent to the registry and are entered in the registry database on the same day they are received and can be accessed 24 hours a day, 7 days a week.</li> <li data-bbox="240 596 1422 785">• The <i>Family Law Act</i> adds as part of the best interest of the child test, consideration of any relevant civil (including child protection) or criminal proceedings relevant to the child’s safety or well-being. This is intended to promote greater information sharing between the criminal, civil/ family justice system when a court is making parenting arrangements for a child.</li> </ul>
Tools/Processes to Ensure Safety
<p data-bbox="186 871 634 905"><b>Structured Risk Assessment Tools</b></p> <ul data-bbox="240 911 1422 1879" style="list-style-type: none"> <li data-bbox="240 911 1422 1100">• B-SAFER (Brief Spousal Assault Form for Evaluating Risk) – British Columbia has selected the B-SAFER tool as the standard, advanced tool for structured domestic violence risk assessment conducted by police in select highest risk cases. In highest risk domestic violence cases where a B-SAFER is used, police are expected to share the results of any B-SAFER risk assessment with criminal justice and child protection colleagues.</li> <li data-bbox="240 1106 1422 1409">• The Community Risk Needs Assessment (CRNA) and Spousal Assault Risk Assessment (SARA) are validated risk assessment tools utilized by probation officers to guide case management decisions with sentenced domestic violence offenders. When properly applied and interpreted, these tools provide guidance in determining the level and form of interventions required to reduce an offender’s potential to re-offend. Risk assessment tools are applied as part of a continuous process that commences at first contact and they remain a priority throughout the offender’s involvement with Community Corrections.</li> <li data-bbox="240 1415 1422 1724">• Ministry of Children and Family Development delegated child protection workers conduct a Safety Assessment on all incidents that are assigned for follow-up. This assessment is completed before leaving a child in the home at the first point of contact with the family. The Safety Assessment assesses 13 safety factors, one of which is <i>Intimate Partner Violence Exists in the Family</i>. The <i>Family and Child Strengths and Needs Assessment</i> further assesses for domestic violence for all cases that continue into the Family Development Response Protection Service Phase and ongoing Protection Services.</li> <li data-bbox="240 1730 1422 1879">• Family Justice Services Assessment Form – All clients referred to a family justice counsellor for information or dispute resolution services concerning their family law matters complete a comprehensive assessment which screens for the following: risk of family violence, child protection issues, mental health issues, drug and alcohol issues,</li> </ul>



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and financial issues. This assessment is used to determine whether mediation is an appropriate dispute resolution process for a particular family, and to facilitate effective referrals that address the family's needs. The comprehensive assessment process is also being used by family justice counsellors preparing court-ordered custody and access reports. In this context, the assessment screens for family violence issues and flags other issues that may impact the parties' abilities to care for their children.

#### Checklists

- Summary of Domestic Violence Risk Factors (SDVRF) Job Aid for Police – This job aid is to be used to guide the risk assessment process conducted by police in all cases of domestic violence. All front-line police officers and supervisors in British Columbia are required to take the *Evidence-based, Risk Focused Domestic Violence Investigation* online course in order to learn how to apply the SDVRF. The SDVRF is not a checklist but serves as a guide to promote evidence-based, risk-focused investigations. The SDVRF is included in the standardized investigative and Report to Crown Counsel template that is being implemented along with the second online course in this domestic violence training series for police.
- RCMP Domestic Violence Investigation Guide (DVIG) – The RCMP DVIG is the RCMP version of the SDVRF and is linked to the RCMP VIR policy. The DVIG and SDVRF cover the same material and leverage the same online training material.
- Factors to Consider when Domestic Violence Safety Planning – This resource, developed by the Victim Services and Crime Prevention Division of the Ministry of Justice in partnership with BC Housing and in collaboration with service providers, details risk factors to consider when safety planning in domestic violence cases. The resource is available for use by victim service workers, outreach and multicultural outreach workers, transition house workers (including safe homes and second-stage housing workers), stopping the violence counsellors and children who witness abuse workers. It builds on the SDVRF tool used by police.
- The Family Maintenance Enforcement Program (FMEP) enrolment form asks for details of any protection orders and requests additional comments from the applicant, including any concerns about safety because of the enforcement of the maintenance order. The FMEP Intake Checklist, used by staff for newly enrolled files, includes a step to check with the recipient regarding any concerns about enforcement, and to determine whether the case should be flagged "caution" in the Case Management System. When FMEP staff receives a threat or a report of potentially violent or threatening behaviour a critical incident form is completed and follow up contact is made with clients and the police.

#### Screening for Family Violence

- Is Your Client Safe? A Lawyer's Guide to Relationship Violence – The province has partnered with the Legal Services Society and Ending Violence Association of British Columbia to develop a [brochure and complementary fact sheets](#) for family law lawyers

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on the topic of screening clients for domestic violence.

- Parenting After Separation program – Program materials contain information about family violence and who to contact for further assistance. The program is offered in-person in English and online in English, Chinese and Punjabi.
- Family Justice Counsellors – Operational policy requires an initial screening for family violence with all clients who contact a Family Justice Centre. Two standard questions are asked to ascertain whether the client has ever had concerns for the safety of themselves or their children, and whether there is an immediate risk of family violence. Additional questions are asked if the client responds affirmatively. Responses are documented in the electronic case management system.

Clients referred to a family justice counsellor for further information or to discuss dispute resolution options complete the Family Justice Services Assessment Form, which includes a comprehensive screening for family violence, and related issues including level of conflict, debt, substance abuse and mental health issues. Clients who disclose family violence are referred to appropriate resources, including the police, legal assistance, safety planning and victim services.

- Family Maintenance Enforcement Program (FMEP) – see above.
- *Family Law Act* – All family dispute resolution practitioners (including lawyers, mediators, parenting coordinators and arbitrators) have a duty under s. 8 to screen for family violence in all family law cases and use that assessment to direct the family processes accordingly. Mediators, parenting coordinators and arbitrators must meet minimum training and practice standards, as required under the regulations, including a minimum 14 hours of family violence training.

### Coordinating Mechanisms

#### Information Sharing Protocols

- See VAWIR Policy including *Protocol for Highest Risk Cases* above. Several communities in British Columbia have developed local inter-agency information sharing protocols.
- The *Family Law Act* adds as part of the best interest of the child test, consideration of any relevant civil (including child protection) or criminal proceedings relevant to the child's safety or well-being. This is intended to promote greater information sharing when a court is making parenting arrangements for a child.

#### Inter-Agency Protocols

- [VAWIR Policy](#) including *Protocol for Highest Risk Cases* – see above.

#### Coordinating Committees

- Violence Against Women (VAW) Steering Team – The VAW Steering Team is the focal point of coordination and collaboration within the British Columbia government on the issue of violence against women and its impacts on children and families. The Team engages in cross-ministry planning, information sharing and implementation of initiatives aimed at strengthening the health, social, and justice system responses to this

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issue. Membership is comprised of representatives from the following areas of government: Ministry of Justice; Ministry of Health; Ministry of Children and Family Development (MCFD); BC Housing; Ministry of Social Development and Social Innovation; Ministry of Education; Ministry of Jobs, Tourism and Skills Training; and Ministry of Aboriginal Relations and Reconciliation.

- Community Coordination for Women's Safety (CCWS) Provincial Working Group – The provincial government funds CCWS, a program of the Ending Violence Association of British Columbia, to assist local justice and child welfare system partners to develop new models or improve existing models of cross-sector coordination. As part of its work, CCWS hosts a provincial working group comprised of representatives from key public sector stakeholders and non-profit community organizations to address systemic issues of concern in communities across the province related to coordination and women's safety. For more information visit [www.endingviolence.org/ccws](http://www.endingviolence.org/ccws).

### Family Violence Action Plans

- 2010 Domestic Violence Action Plan  
In January 2010, the province announced a Domestic Violence Action Plan in response to recommendations from the Lee/Park Coroner's Inquest and the Representative for Children and Youth's report on the death of Christian Lee. The focus of the Action Plan was on enhancing and integrating the response to domestic violence by justice and child welfare system partners. Released in March 2010, key components of the Action Plan included:
  - BC Coroners Service Death Review Panel (held in March 2010);
  - Creation of a Domestic Violence Unit in the Capital Region (established in July 2010);
  - Update to Provincial *Violence Against Women in Relationships* (VAWIR) policy including development of a new *Protocol for Highest Risk Cases* (finalized in December 2010);
  - Standardized community supervision (bail) conditions (included as Appendix in revised VAWIR policy);
  - Standardized advanced risk assessment tool for police (B-SAFER selected);
  - Cross-sectoral training on risk assessment (B-SAFER) (police, Crown, MCFD, victim services);
  - Update to Best Practice Approaches for Child Welfare Workers (finalized in November 2010);
  - Creation of [public](http://public.domesticviolencebc.ca) website ([domesticviolencebc.ca](http://public.domesticviolencebc.ca) launched in September 2010);
  - Model domestic violence operations policy for police (finalized in January 2011); and
  - Enhanced linkages between the PRIME and JUSTIN systems for better tracking of domestic violence files between the police and courts (finalized in April 2011).
- [Taking Action on Domestic Violence in British Columbia](#) (September 2012)  
The Provincial Office of Domestic Violence led the development of an action plan, with specific targets and timelines, in response to the recommendations in the Representative for Children and Youth's *Honouring Kaitlynne, Max and Cordon* report

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that set a course towards a coordinated and strengthened approach to domestic violence.

- Future Domestic Violence Plans

In collaboration with community stakeholders, the Provincial Office of Domestic Violence is leading the development of a comprehensive three-year provincial plan that will continue to strengthen the response to domestic violence by improving the coordination and collaboration across the system of supports and services. The plan will be ready for release in 2013.

### New Initiatives (Non-Justice)

[Provincial Office of Domestic Violence](#) – In response to the Representative for Children and Youth's report into the deaths of Kaitlynne, Max and Cordon Schoenborn at the hands of their father, the provincial government created the Provincial Office of Domestic Violence in March 2012. The Office provides sustained leadership within government to ensure there is accountability to a coordinated systemic approach to domestic violence in British Columbia.

### Key Reports

Critical Components Project Team, [Keeping Women Safe: Eight Critical Components to an Effective Justice Response to Domestic Violence](#) (April 2008).

Representative for Children and Youth, [Honouring Christian Lee – No Private Matter: Protecting Children Living With Domestic Violence](#) (September 2009).

Verdict at Coroner's Inquest, [Findings and Recommendations as a Result of the Inquest Into the Death of Kum Lea Chun, Moon Kyu Park, Christian Lee, Yong Sun Park, Hyun Joon Lee](#) (December 2009).

BC Coroners Service, [Report to the Chief Coroner of British Columbia: Findings and Recommendations of the Domestic Violence Death Review Panel](#) (May 2010).

Rossiter, Katherine, [Justice Institute of British Columbia. Domestic Violence Prevention and Reduction in British Columbia \(2000-2010\)](#) (September 2011).

Representative for Children and Youth, [Honouring Kaitlynne, Max and Cordon – Making Their Voices Heard Now](#) (March 2012).

BC Coroners Service, [Intimate Partner Violence in British Columbia \(2003-2011\)](#) (April 2012).

Provincial Office of Domestic Violence, [Taking Action on Domestic Violence in British Columbia](#) (September 2012).

## Manitoba

### Legislative Responses

#### Family/Domestic Violence Legislation

[The Domestic Violence and Stalking Act](#) provides for civil orders of protection for victims of domestic violence or stalking. The Act creates two types of orders; protection orders which are granted by judicial justices of the peace on a without notice basis to address urgent situations and prevention orders which are granted by Court of Queen's Bench judges. Domestic violence is defined as certain behaviours (sub-section 2(1.1)) that occur between people in certain types of relationships (sub-section 2(1)).

#### Family Law Provisions Related to Family Violence

[The Family Maintenance Act](#) provides for a variety of family law relief including child custody and access, child support, spousal and common-law partner support, child status, recalculation and support enforcement. Domestic violence is defined with reference to *The Domestic Violence and Stalking Act*. In determining the best interests of a child for the purposes of a child custody or access order or variation of same, the court must consider a range of best interests criteria including the impact on the child of any domestic violence (sub-section 39(2.1)(c)).

If a person needs locate information in order to bring an application for support or custody or to enforce a support or custody order, they may apply to court for an order that a person, the government or an agency of government disclose records of the other person's whereabouts. Before giving information to the applicant, the court must assess the risk of domestic violence or stalking to the person whose whereabouts is to be disclosed (sub-section 49(1.2)).

[The Child Custody Enforcement Act](#) also provides that a person who needs address information about another in order to seek to enforce a custody order may apply to the court for an order that any person or public body disclose that address information to the court. Before giving information to the applicant the court must assess the risk of domestic violence or stalking to the person whose address is to be disclosed (sub-section 13(2.1)).

[The Enforcement of Canadian Judgments Act](#) deems a Canadian civil protection order to be an order of the Manitoba Court of Queen's Bench that may be enforced as such, whether or not it is registered with the court (section 10). A Canadian civil protection order is enforceable by a law enforcement agency (section 11) and an agency, its employees and agents are immune from any actions or proceedings for anything done in good faith to enforce a Canadian civil protection order (section 13).

[The Child Sexual Exploitation and Human Trafficking Act](#) provides that a subject if over age 18, or if under 18, the subject's parent, guardian or child protection agency (sub-section 3(1)), may apply to a judicial justice of the peace for a protection order without notice to the respondent (sub-section 3(2)).

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[The Adult Abuse Registry Act](#) established an adult abuse registry for the entry of names of persons who abuse or neglect vulnerable adults protected under *The Vulnerable Persons Living with a Mental Disability Act* or under other Acts specified by Regulation. Other recent amendments to *The Vulnerable Persons Living with a Mental Disability Act* have:

- Created a specific offence of abusing or neglecting a vulnerable person (paragraph 164(1)(a)).
- Placed a duty to protect vulnerable persons from abuse or neglect, on service providers, substitute decision makers and committees (section 20.2).
- Placed a duty on everyone to report abuse or neglect of a vulnerable person (sub-section 21(1)).
- Increased penalties for offences under the Act to a fine of up to \$50,000 or up to 24 months' imprisonment or both (sub-section 164(2)).

*The Adult Abuse Registry Act* and the related amendments came into force January 15, 2013.

### Child Protection Provisions Related to Family Violence

[The Child and Family Services Act](#) addresses child protection. Paragraph 17(2)(e) provides that a child is in need of protection where the child is "is likely to suffer harm or injury due to the behaviour, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child". The following additional remedies may relate to family violence:

- An agency with reasonable grounds to believe a person has or is likely to subject a child to abuse may apply for an order that the person cease to reside with the child and/or refrain from contact or association with the child (section 20);
- Interference with a child in care is a summary conviction offence punishable by up to \$50,000 fine or 24 months in jail or both (section 52); and,
- A person with lawful care and control of a child may on application seek an order that another person not molest, harass or annoy the child and may require that person to enter into a recognizance or post a bond to ensure compliance (section 80(1)).

## Police

### Policies

Relevant policies (spousal/intimate partner violence/child witnesses/child abuse):

- RCMP "D" Division Policy
- Winnipeg Police Service Domestic Violence Policy
- Brandon Police Service Domestic Violence Policy

## Crown

### Policies

**Updated Domestic Violence Policy and Directives** (pending review of the Minister): Covers domestic violence prosecutions in detail, bail considerations, contact with Victim Services re: informing complainants, dealing with child witnesses, diversion, dealing with uncooperative

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witnesses (KGB/KHAN/Khelawon applications).

Regular contact with Winnipeg Police Service Domestic Violence and Child Abuse Units. Share computer files with Victim Services and Child Victim Services for immediate information relating to contact, safety planning and position.

**Child Abuse Policy and Directives** (currently under revision to incorporate changes resulting from Bill C-10): Comprehensive outline of requirements necessary for prosecuting child abuse cases including relevant case law, *Criminal Code* sections, contact information for Child Victim Services and policy regarding mandatory minimums.

Close working relationship with Winnipeg Police Child Abuse Unit and file sharing with Manitoba Justice Victim Services, Child Victim Support Services programs.

### Child Protection

#### Policies

#### Manitoba Justice Victim Services :

When an assault against a child has occurred, the victim services workers (VSW) will contact Child and Family Services (CFS) and inform an intake worker. Follow-up calls are also made to CFS if the worker believes that the child may be at risk or has witnessed abuse. Examples of when to contact CFS are outlined below:

- domestic violence incidents involving young (teenage) parents;
- matters where children have been assaulted/threatened during the incident;
- children have witnessed an incident;
- WPS/RCMP note neglect factors (ex: filth, lack of food, substandard housing conditions);
- CVSW is aware that a CFS file already exists;
- children made the call to 911;
- past domestic charges relating to the parties;
- past domestic charges not related to current partner;
- lengthy violent criminal record including gang connections;
- past sexual abuse charges;
- victim's capacity to protect children is compromised (ex: seeking reconciliation with violent offender);
- complainant or offender have mental health concerns;
- alcohol/substance abuse issues for parents of babies/toddlers;
- pregnant women using alcohol/illegal substances; and
- update agency on variations/removal of court orders.



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Service-Based Responses
<p><b>Victim Services</b></p> <p>Manitoba Justice's Domestic Violence Support Service: Domestic Violence Support Service helps victims of domestic violence when criminal charges have been laid, or may be laid against their partners. Based on 2005 amendments to the <a href="#">Domestic Violence and Stalking Act</a>, Victim Services provides training to community services agencies so that they may become designated to provide assistance to protection order applicants. The program provides support and information to victims of domestic violence by:</p> <ul style="list-style-type: none"> <li>• providing information about the criminal charges and the court process;</li> <li>• explaining the roles of those involved in the criminal justice system;</li> <li>• discussing safety planning;</li> <li>• explaining how to get protective relief orders;</li> <li>• offering on-going emotional support and short-term counselling;</li> <li>• explaining the cycle of violence and how it can be broken;</li> <li>• offering support throughout the court process;</li> <li>• preparing victims and going to court with them, when possible;</li> <li>• advising Crown attorneys of concerns that victims may have about court cases; and</li> <li>• providing information and referrals to community resources, as needed.</li> </ul> <p>The program also provides victims with information about the <a href="#">Cellphone Emergency Limited Link-up program (CELL)</a>.</p> <p>See attached links and information:</p> <ul style="list-style-type: none"> <li>• <a href="#">Domestic Violence</a></li> <li>• <a href="#">The Cycle of Violence and how you can break it</a></li> <li>• <a href="#">Protection Plan for People in Abusive Relationships</a></li> <li>• <a href="#">Multilanguage fact sheets on the cycle of violence and protection planning</a></li> <li>• <a href="#">The Impact of Domestic Violence on Children</a></li> <li>• <a href="#">Stalking is a Crime</a></li> <li>• <a href="#">Domestic Abuse Community Resource Map</a></li> </ul> <p>Manitoba Justice's Child Victim Support Service (CVSS): CVSS helps victims and witnesses of abuse (under 18 years of age), adult survivors of sexual abuse, and other vulnerable victims (on a case by case basis) who are involved in the criminal court process. CVSS helps victims and witnesses by:</p> <ul style="list-style-type: none"> <li>• explaining the criminal court process and procedures;</li> <li>• preparing them for court (including a visit to the courtroom to help familiarize them with their surroundings and make them feel more comfortable);</li> <li>• identifying special needs and the potential for aids to help with testimony;</li> <li>• attending court with witnesses, when possible;</li> <li>• scheduling meetings with Crown attorneys to discuss any special issues;</li> </ul>



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- arranging short-term counselling;
- providing emotional support;
- referring them to community resources such as therapists or treatment programs; and
- providing information and guidance on how to prepare Victim Impact Statements.

**The Family Violence Prevention Program (FVPP)** plans and develops community programs to help stop domestic violence. Domestic violence is most often directed towards women by their partners. The program supports special services for abused women and their children and for men living with domestic violence.

There are 32 agencies across Manitoba that provide help for people affected by domestic violence:

- **10 women's shelters** – emergency shelter and counselling for women and children who are victims of domestic violence (also, find accommodations for men who need a safe place);
- **provincial toll free crisis** – automatically links you with the nearest shelter that will provide safety;
- **9 women's resource centers** – provide information and referral, individual counselling, outreach and support groups for women;
- **residential second-stage housing programs** – offer protective, affordable, long-term housing for women who leave an abusive relationship, but need more than just physical protection;
- **urban support programs** – provide individual counselling, open and closed support groups, longer term counselling, training for other service providers and public education;
- **specialized programs** – include supervised access services for parents and their children and couples counselling; and
- services that respect cultural needs are also available for Aboriginal, Francophone and immigrant women and children.

See attached links:

[Family Violence Prevention Program](#)  
[Dealing with Domestic Violence or Family Violence?](#)

### Supervised Access

The [Winnipeg Children's Access Agency](#) and the [Brandon Access Exchange Service](#) are non-profit organizations that assist with the pick-up and drop-off of children for access as well as access supervision. These agencies are funded in part by Manitoba Family Services and Labour.

### Parent Education/Information

The Family Conciliation Office of Manitoba Family Services and Labour offers a parent education program called *For the Sake of the Children*, to help parents experiencing separation

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or divorce to understand what they are going through both legally and emotionally and to assist them in understanding and meeting their children's needs. Court rules make program attendance mandatory (with some specified exceptions) for Manitobans who are requesting or responding to requests for orders of child custody, child access or private guardianship. There are two separate programs, based on the level of conflict the parents are experiencing.

### Child Education/Information

*Caught in the Middle* is a group program offered by the Family Conciliation Office of Manitoba Family Services and Labour. It is for children aged eight to 13 whose parents are in conflict over separation and divorce issues. It is not focussed on family violence.

## Court-Based Responses

### Domestic Violence Court

The Domestic Violence Unit consists of 20 prosecutors, two Supervisors and a Child Exploitation Coordinator. Courtrooms dedicated to domestic violence cases (trials/preliminary hearings), bail hearings and Court of Queen's Bench matters are located in Winnipeg.

All matters are heard – from common assault to homicide

File Ownership – the same Crown deals with the case from the time of arrest until conclusion. The Crown also assumes conduct of any future files relating to same accused and/or complainant.

## Tools/Processes to Ensure Safety

### Checklists

Checklist for bail court setting out appropriate conditions if offender released.

Computer program (Prism) and laptops in court provide instant access to file notes, addresses, complainant contact with Victim Services and contact from Probation and Probation High Risk Units.

**Manitoba Justice's Victim Services** – Professional assessment by social workers.

**Manitoba Justice's Correctional Services** – Offender Risk Assessment Management System – Primary Risk Assessment (ORAMSPRA).

### Screening for Family Violence

Mediators and comprehensive co-mediators with the Family Conciliation Office of Manitoba Family Services and Labour use the Tolman Screening Model as their standard screening tool used at intake. For comprehensive co-mediation, further questions are asked at the initial individual meeting and the lawyer and social worker confer on whether they can proceed before any joint meetings are scheduled. The screening tool is not shared with other

## Manitoba

services/agencies or the court.

### Coordinating Mechanisms

#### Coordinating Committees

**Domestic Violence Death Review Committee (DVDRC):** Announced in June 2010, the DVDRC reviews homicide cases involving domestic violence to see what can be learned from them and to seek ways to prevent similar deaths from occurring in the future.

The Manitoba DVDRC reports to the Attorney General and includes representatives from Manitoba Justice Victims' Services, Prosecution Services and Probation along with the Family Violence Prevention program, Manitoba Status of Women, Manitoba Women's Advisory Council, Office of the Chief Medical Examiner, Winnipeg Police Service, RCMP and RESOLVE, which is a regional family violence research network.

The reviews take a fresh and detailed look at selected cases where the criminal justice process is completely over, looking for trends, risk factors and patterns. The committee explores the history, circumstances and conduct of perpetrators, victims and their families. Community and systemic responses are examined to identify possible gaps and points of intervention that might help others avoid similar fates. Extensive work has gone into ensuring the committee and its working group will respect the privacy rights of victims and avoid further traumatizing surviving family members.

The committee will make recommendations to the Minister of Justice for effective domestic violence intervention and prevention strategies. An executive summary of Manitoba's 2011-2012 report can be found at the following link:

[http://www.gov.mb.ca/justice/publications/pdf/annualreport\\_dvdrc\\_2011-2012.pdf](http://www.gov.mb.ca/justice/publications/pdf/annualreport_dvdrc_2011-2012.pdf)

#### Family Violence Action Plans.

**Moving On – Independence After Domestic Violence:** On November 1, 2011, the Government of Manitoba announced the development of a multi-year domestic violence strategy called Moving On – Independence After Domestic Violence, which comprises:

- Safe Pet – a leading-edge shelter program for family pets while survivors transition from abusive situations, based on findings that people don't feel comfortable leaving a relationship if a pet is left behind and that children experience further trauma when a pet is left at risk in the home;
- Moving On and Managing Your Money – Canada's first comprehensive guide and website to help survivors avoid common money problems and help achieve independence;
- evening and weekend counselling security upgrades – the installation of closed circuit TV monitoring and digital video recording at women's resource centres for safer off-hours counselling programs (\$26,500);
- one victim, one support worker – for continuity of supports, a counsellor will be

### Manitoba

designated to help victims before or after charges are laid by co-ordinating the work of the Domestic Violence Intervention Unit and the Domestic Violence Support Service in Manitoba Justice; and

- early lease termination – will now be available to victims of domestic violence or stalking so they can get out of an abusive home or an at-risk location with just one month's or one rental period's notice, rather than at the end of the lease, recognizing that victims might otherwise postpone leaving their home because of lease obligations.

**Safer Today, Stronger Tomorrow:** The province also launched a public consultation in January 2012 for a renewal of its comprehensive multi-year domestic violence strategy called Safer Today, Stronger Tomorrow. The strategy will also contain a women's shelter and residential program modernization action plan. To advise on action plan priorities, the province is creating a task force comprised of shelter expertise from outside the province, representatives from Manitoba Housing, the Family Violence Prevention Program and the Manitoba Women's Advisory Council, which will review facility and program needs with agencies.

**Public Awareness Strategies:** Two public awareness strategies were also launched in November 2011 as part of Domestic Violence Prevention Month. One was a multi-media message that "Without help, abuse only gets worse". The other was a new radio feature by Manitoba's consortium of domestic violence service providers on the impact of domestic violence on family members.

On November 5, 2012, the province launched a new public awareness campaign and domestic violence strategy as part of domestic violence prevention month. The advertising campaign includes videos featuring Blue Bomber players Glenn January, Chris Cvetkovic, Andre Douglas, Cory Watson and Jason Vega. The messages remind Manitobans to be more than a bystander and help break the silence on domestic violence that affects women, children and families.

The new strategy has three themes: supports for victims and families, interventions for people with abusive behaviour, and prevention, awareness and training. Multi-year strategy items include:

- investing over \$1 million in capital improvements to shelters and other family violence facilities owned by the province;
- developing supports for agencies and individuals to address the needs of women who use multiple provincially funded shelters frequently and for extended periods of time;
- working with Aboriginal communities on specific strategies to address domestic violence;
- providing ongoing, stable funding for A Woman's Place to employ a lawyer to assist women affected by domestic violence with their legal matters;
- offering supports to victims dealing with abuse by an immediate or extended family member;
- working with provincially funded organizations to ensure recruitment and retention of

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- qualified staff;
- providing interpreters to assist those applying for protection orders;
- piloting a family court support worker program through Victim Services that will offer support for victims of domestic violence who are also involved in a family court proceeding;
- exploring legislative options to protect victims from harassment by in-custody offenders;
- appointing Marlene Bertrand to lead the implementation of the strategy with a team of community and government representatives;
- continuing to engage men and boys as allies in preventing violence against women; and
- continuing to spend over \$15 million annually on programs to help support victims of domestic violence and their children.

Information on the strategy and the videos supporting the Break the Silence campaign are available at [www.manitoba.ca/stoptheviolence](http://www.manitoba.ca/stoptheviolence) and on Twitter @MBGov and help #StopTheViolence.

New Brunswick
Legislative Responses
<p>New Brunswick has a Unified Family Court system with divorce matters and provincial family law matters including child and adult protection, heard at the same superior court level, the Court of Queen's Bench. The <a href="#">Family Services Act</a> governs family relations from adoption to child protection, adult protection, spousal and child support to custody and access. Remedies related to family violence included in the Act:</p> <ul style="list-style-type: none"> <li>• section 7 - Minister responsible for child protection to be notified of all family court proceedings with respect to custody of a child; sub-sections 34(1) to 42(2) - deals with suspected situations of abuse and/or neglect if the person is 65 years of age or over or is a disabled adult;</li> <li>• sub-section 37(1.1) - protective care for adult protection matters;</li> <li>• paragraphs 116(1) (d) &amp; (f) - exclusive possession;</li> <li>• section 128 - restraining order;</li> <li>• section 132 - restraining order/custody and access restrictions; and</li> <li>• sections 132.1 - 132.2 - child abduction.</li> </ul> <p>Emergency Process:</p> <ul style="list-style-type: none"> <li>• <i>Ex-parte</i> order (New Brunswick Rules of Court, Rule 37.04 (2, 3)).</li> </ul> <p>Child Protection Provisions for family violence include:</p> <ul style="list-style-type: none"> <li>• section 30 - duty to report suspected child abuse/neglect;</li> <li>• paragraph 31(1)(f) - child's security is in danger when living in a situation of domestic violence;</li> <li>• sub-sections 33(3) &amp; (4) - removal of a parent (not used often);</li> <li>• Part IV - remedies for children in care of the Minister of Social Development; and</li> <li>• section 58 - protective intervention order.</li> </ul>
Police
<p><b>Policies</b></p> <p>Municipal Police - Nine municipal forces serve thirteen regions.</p> <p><b>Operational Policy on Assaults – Woman Abuse</b>, includes:</p> <ul style="list-style-type: none"> <li>• Receiving a complaint;</li> <li>• Immediate action and investigation;</li> <li>• Notification of Social Development if children are at risk;</li> <li>• Spousal/partner abuse investigation checklist (form); and</li> <li>• Present charge to Crown for decision as to whether or not to proceed to Court.</li> </ul> <p><b>Operational Policy on Victim/Witness Assistance</b>, includes:</p> <ul style="list-style-type: none"> <li>• Victim/Witness Needs Analysis;</li> <li>• Victim Referrals;</li> <li>• Court Preparation and Support Services;</li> </ul>

## New Brunswick

- Court Follow-up; and
- Victim Impact Statement Program.

### Protocols

**New Brunswick Woman Abuse Protocols (2004)** (which is under review), includes:

- Reporting;
- Children who witness abuse; and
- Resources and safety planning.

### **Child Victims of Abuse and Neglect Protocols (2005)**

- Police investigation reports – Crown authorizes charges
- Crown's involvement in parallel proceedings criminal and child protection - Police/Child Protection social workers and Crown Prosecutors have close consultation and information sharing.
- special protocols for victims of sexual assault
- referral to provincial victim services

### **Police Based Risk Assessments for Domestic Violence New Brunswick Protocol (DRAFT)**

- New Brunswick Policing Standards (2004) require Police Forces to follow the established protocols for the investigation of Woman Abuse and Child Abuse, and Adults at Risk of Abuse (Adults with disabilities and seniors).
- New Brunswick Policing Standards (2004) also require the Police Forces to complete an analysis of victim/witness assistance needs and available services within the police force's service area at least every three years or has access to an inventory of information and service needs of victims/witnesses in general, including those victimized by domestic violence, abuse and neglect.

## Crown

### Policies

#### **Attorney General Supplemental Policy Spousal/Partner Violence**

Definition of Spousal/Partner Violence is any and all forms of violence or abusive behaviour between persons who are or who have been involved in a personal relationship. "Personal relationship" is defined as a relationship between persons who are or who have been legally married, living together, and/or dating and includes, but is not limited to, sexual assault, physical assault or the threat thereof, intimidation, criminal harassment, and damage to property or the threat thereof. It is prosecuted in accordance with the Attorney General's usual charge screening standard, that a charge should be recommended where there is a reasonable prospect of conviction and that it is in the public interest to prosecute. This standard test is set out in the Public Prosecution Services Operational Manual accessible online through the Province of New Brunswick website.

- Police are responsible for investigations and Crown prosecutors review and evaluate the evidence in the investigation file and decide whether to recommend charges be laid by

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the police, based upon whether there is a reasonable prospect of conviction or not.

- First steps: Crown's efforts to get an early court date and respond to any defence requests for adjournment in order to minimize delays. Breaches of court orders or police undertaking relating to spousal/partner violence are prosecuted without delay.
- Ensure police have referred the victim to victim services (automatic referral Victim Services Branch of the Department of Public Safety unless the victim does not consent). If the victim is a child, ensure that the police have contacted child protection services.
- Crown Prosecutors may enter into a plea resolution agreement under certain circumstances for example: the charges to which the accused will plead guilty and the sentence the Crown prosecutor will propose, reflect the gravity of the provable offences; the accused accepts at sentencing, legal and factual guilt in relation to the proposed guilty plea; and, the Crown prosecutor considers any known concerns of the victim and the police.
- Prosecution is not discontinued if victim recants or refuses to testify - certain other circumstances are outlined for the Crown to consider regarding discontinuance.

#### Protocols

**Woman Abuse Protocols** (which is under review) sections 6.1-6.2, includes:

- Charging Decision;
- Initiating prosecutions;
- Peace Bonds;
- Accused Pending Trial; and
- Sentencing.

**Protocols for The Use of Testimonial Aids for Vulnerable Witnesses** (this references the sections of the *Criminal Code* that allow for judicial discretion if necessary to protect victims from the accused based on the relationship) (2006)

**Child Victims of Abuse Protocols (2005)** – see above under Police.

### Child Protection

#### Policies

The Department of Social Development has a **Multiple Response Practice Standards in Child Protection and Family Enhancement Services (2011)**, a mandatory accountability framework for child welfare across the province.

The Department of Social Development relies upon the **Structured Decision Making Model**, an electronic intake assessment tool with specific questions on intimate partner violence/domestic violence and its impact upon the child. If a case is screened out as child protection and there are Domestic Violence indicators, the Department of Social Development staff are directed to refer to the Woman Abuse Protocols for referrals and safety planning.



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The Department of Social Development, **Family Group Conference Practice Standards (Collaborative Decision Making process in child welfare)** sets out policy considerations for safety including when working with victims of Domestic Violence.

### Protocols

**Child Victims of Abuse Protocols (2005)**, includes:

- Multidisciplinary approach;
- Joint Investigations, communication and cooperation with Police and child protection services;
- Interdepartmental responses to child victims of abuse/neglect;
- Provincial Victim Services for child victims of crime; and
- Civil proceedings are resolved quicker and have shorter timelines pursuant to provisions in the Family Services Act and New Brunswick Rules of Court.

**Operational Protocols** established between the New Brunswick Department of Social Development (Child welfare authority) and the First Nation's Child and Family Services Agencies, child protection services.

## Service-Based Responses

### Victim Services

**Victim Services** (New Brunswick Department of Public Safety) are court based service for victims of crime. They provide information on the criminal justice system and court process; referrals for counselling; court preparation and support; information about financial supports and remedies; assistance with victim impact statements and give information on sentencing outcome if accused is convicted or notification of offender's release if the offender is incarcerated.

**Fredericton Sexual Assault Crisis Centre (FSACC)** is a community-based agency serving Fredericton region. Services in the remainder of the province are being enhanced. FSACC partners with the Women's Equality Branch to implement and monitor a network of community based sexual assault services across the province.

**Victim Services – Municipal police** (Fredericton and Saint John districts) are police-based services with the staff and volunteers. They provide support for victims of crime, including domestic violence calls.

### Shelters

- Transition Houses provide shelter and crisis intervention for women, with or without children, who are victims of relationship violence and abuse.
- New Brunswick has 13 transition houses which are for short term (approximately one month) stays and 6 second stage housing facilities (which provide ongoing programming

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and support over a 1 to 2 year period).

### Programs for Children Exposed to Family Violence

#### “Moving Forward” Program

- The Executive Council Office of the Women’s Equality Branch funds 9 programs across the province that provide free access for the public. These are community-based programs for children and their mothers to heal from the hurt of living with domestic violence. Children and their mothers learn skills to heal from violence in their lives, create safety plans, and make social connections.
- Each program has trained facilitators who help create safe and secure environments for children and their mothers to share their thoughts, feelings and experiences.

### Abusive Partner Programs

**Provincial Court-Moncton Domestic Violence** has a coordinated programming for drug and alcohol addiction, mental health services and domestic violence intervention.

Department of Public Safety-Community and Correctional Services – **Criminogenic Rehabilitation and Reintegration Support Programs** for perpetrators of domestic violence (anger management, partner abuse treatment, sex offender treatment).

**John Howard Society of New Brunswick** – provides Narrative Therapy programs for abusive partners offered in some parts of the province.

### Supervised Access

**The Department of Social Development**, the provincial child welfare authority, may provide supervised access for parents of children under their care, custody or supervision.

**For the Sake of the Children** is a free information program for separated parents designed to help them understand the legal and emotional repercussions of a separation and to cope with the separation so that they may help their children adjust. The free 6-hour program is presented to participants in two 3-hour sessions (Part A and Part B). Content includes sensitivity and considerations for high conflict circumstances such as family violence.

### Child Education/Information

‘**Moving Forward**’ see above under Programs for children Exposed to Family Violence.

**Child Support Workers** are on staff at transition houses and second stage housing and provide:

- crisis intervention;
- play based and psycho-educational interventions;
- referral/linkages;
- parenting/skill development and the effects on children of witnessing family violence.

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### Other Services

The **Executive Council Office, Women's Equality Branch** funds 14 Outreach Programs across the province. The goal of outreach is to ensure women living in or leaving abusive relationships have access to someone who can respond to their crisis and support them. Outreach workers provide information, risk assessment, safety planning, accompaniment, referrals and spaces where it is safe to meet with women. The program is an important resource for family violence services, and guides victims to the services they need.

## Court-Based Responses

### Domestic Violence Court

The Moncton Domestic Violence court deals with charges arising from criminal incidents between current and former intimate partners, including married, common-law, and never-cohabited (i.e. dating). The Moncton jurisdiction includes the counties of Kent, Westmorland and Albert. Goals of the Domestic Violence Court are to: promote offender accountability and early intervention that may help stop the cycle of violence; accelerate prosecution and the court processes; and offer timely access to services for both victims and offenders. Key components of the specialized court are: partnership and collaboration amongst police, Crown, probation and victim services, and community-based service providers to ensure consistent and timely response to incidents and the needs of victims and offenders; a Court Coordinator; Regular and frequent post-disposition monitoring of offenders, to ensure follow through on sentencing conditions. A specialized risk assessment tool in use by all stakeholders, more intensive monitoring and follow-up of cases following sentencing are central features of this court.

### Elsipogtog Healing to Wellness Court

Is a pilot project which incorporates First Nations practices and culture, and deals not only with crime, but its underlying causes. Domestic violence related offences which do not involve serious bodily harm and do not carry minimum mandatory sentences can be considered for eligibility into the program, subject to the discretion of the Crown prosecutor and Healing Team. The Healing to Wellness Court has two streams: a Healing to Wellness stream and a conventional Provincial Court stream. The Healing to Wellness stream is a judicially supervised therapeutic program aimed at providing treatment and support for accused persons living with an addiction to alcohol or drugs, mental health problems, and/or an intellectual disability including Fetal Alcohol Spectrum Disorder.

### Linking between Civil and Criminal Justice Systems in Domestic Violence Cases

- The Provincial Court – Domestic Violence Court Coordinator facilitates sharing of relevant information between the criminal and family divisions of the courts related to existing civil orders such as child protection (Department of Social Development) and private family law matters involving custody and access restrictions. Information is shared with the immediate key partners of the Court involving the police, Crown prosecutor, legal aid, probation officer and victim service coordinator who meet on a

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regular basis. To prevent the issuing of conflicting court orders between the criminal and family justice system, the coordinator consults the family court information system on a weekly basis to cross-reference potential overlapping domestic violence cases, by using identifying information of offenders and victims scheduled to appear in domestic violence court each week.

- Elsipogtog Healing to Wellness Court pilot project case manager facilitates information sharing between several agencies including but not limited to Health, Mental Health, Addiction Services, Victim Services, Public Prosecutions, Child Protection and Education, for the purposes of assessment, to identify referrals or resources, to develop a treatment plan and to monitor progress.

### Tools/Processes to Ensure Safety

#### Structured Risk Assessment Tools

Various tools are in use within New Brunswick. Police have received training in the Brief Spousal Assault Form for Evaluating Risk (B-SAFER) tool for structured domestic violence risk assessment and they are expected to share the results with criminal justice colleagues such as the Crown prosecutor.

Department of Public Safety, provincial Victim Service Coordinators are required to use the Aid to Safety Assessment and Planning (ASAP) and the Danger Assessment tool. Probation Services rely upon the Spousal Abuse Risk Assessment (SARA), the Ontario Domestic Assault Risk Assessment (ODARA) and when appropriate, the Level of Service Case management Inventory (LS-CMI). Provincial Correctional Institution staff use the LS-CMI for the “continuum of service” between community corrections and institutions, and for classification purposes. At the Provincial Court-Domestic Violence, Moncton the B-Safer risk assessment tool is used for bail hearings and at times, to assist with conditions of release. One of the key features of this specialized court is the use of a common risk assessment tool, B-SAFER, among key stakeholders. Community outreach workers, transition houses and second stage housing are encouraged to use the Aid to Safety Assessment and Planning (ASAP) tool and the Danger Assessment tool.

The Department of Social Development (SDM), the child protection authority, relies upon a Structured Decision Making tool (an electronic case information and assessment framework). Domestic violence risk assessment and safety planning are integrated into the SDM model which was adapted from the Wisconsin Children’s Research Center.

#### Screening for Family Violence

- The Family Support Orders Service (FSOS) has the responsibility to enforce family support provisions in court orders and agreements filed with the office. The office collects support payments from payers and their income sources, and takes enforcement measures when support has not been paid. The automatic enrolment of support orders into FSOS normalizes the process thereby reducing the risk to victims of

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intimate partner violence. FSOS is a neutral 3<sup>rd</sup> party who is responsible for the decisions with regard to what enforcement action is taken and at what point in time. Enforcement officers flag cases where there are safety concerns, violence and, threats and follow up with the client to see if they prefer that any special precautions are taken with regard to the support enforcement.

- Saint John Family Law Case Management Model includes a government funded family mediation component for the judicial district of Saint John. Services are situated at the court house. Policy and procedures exist for family mediators to complete domestic violence screening individually with all parties and not to mediate if there are indications that intimate partner violence has or is occurring and could impact the capacity of the person to effectively participate in mediation. The Assessment tool and Indicators of Danger Checklist are used. This document is confidential and shared only upon written consent of the party who disclosed the information to the mediator.

### Coordinating Mechanisms

#### Information Sharing Protocols

- Provincial Court-Domestic Violence – Moncton region. Information Sharing Protocols between key partners see under “Court-based Responses” above.
- Court Coordinator, Moncton Domestic Violence Court, see under “Court-based Responses” above.
- Privacy Protocol Elsipogtog Healing to Wellness Court Pilot (2010-2014) see under “Court-based Responses” above.
- Province wide electronic data base and case management system being developed for use within the civil justice system and being considered for use within the criminal justice systems (NOTA).

#### Inter-Agency Protocols

- Woman Abuse Protocols (2004).
- Provincial Court-Domestic Violence-Moncton region see above under “Court-based responses”.

#### Coordinating Committees

- Provincial Partnerships in Action Committee (PPA) is coordinated by the Women’s Equality Branch, Executive Council Office, Government of New Brunswick. The PPA works at the provincial level towards a comprehensive New Brunswick-wide response to the issue of violence against women. The PPA regroups representatives from 14 local family violence committees across the province. Local Family Violence Committees established in each region of New Brunswick are made up of partners from both government and non-government agencies who come together to work on violence prevention initiatives within their respective communities.

## New Brunswick

### Family Violence Action Plans

- The Women's Equality Branch, Executive Council Office, continues to implement the government's strategic plan to end violence against women. Highlights include:
  - Transitional supports for women and services to women and children;
  - Access to justice services- specialized court model;
  - Education and prevention initiatives;
  - Ongoing Better World for Women commitments; and
  - Leadership and co-ordination.
- Action Plan for Mental Health in New Brunswick 2011-2018 includes a commitment for government to continue funding outreach programs which support women who have experienced violence and/or sexual assault.

### New Initiatives (Non-Justice)

- The "Shelter Training Manual", launched province-wide March 30, 2012, is for staff at shelters for victims of abuse, community based family violence outreach workers and staff at second stage housing. This was a community driven initiative funded by government and private foundations.
- The Integrated Service Delivery pilot for at-risk children and youth with complex needs is mandated to focus upon five core areas: educational development; emotional/behavioural functioning; mental health and addictions; family relationships; and physical health/wellness. Goals are to streamline access to government and community services and provide prevention and early intervention services to prevent child abuse, emotional/behavioural problems, substance abuse and criminal behaviour. It is led by the Department of Education and Early Childhood Development.
- Public Legal Education Information Services – "Navigating the Family Justice System" is a two year project piloting and evaluating monthly bilingual workshops in every judicial district to educate the growing number of individuals handling their own family law matters. Based in the community and led by pro bono lawyers, the workshops explain the rules of court and proper legal procedures associated with the most common family law matters such as uncontested divorces, support variation and applications for custody/access.
- Domestic Violence Death Review Committee – Advisory body to the Office of the Chief Coroner, New Brunswick has been in place since 2010.
- [www.familylawnb.ca](http://www.familylawnb.ca); is a web site created by Public Legal Education and Information Services (PLEIS-NB) that provides information on the separation and divorce process. Included on the website are: Ask Expert Videos; FAQs; Going to Court; Family Law Forms; Family Law Publications; Find a Lawyer; Get Help and Self-Help Guides; and fillable forms (Launched March, 2010).

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### Existing Initiatives

- Intimate Partner Violence “Train the Trainer program” for Police and Social Workers was launched in the fall of 2008. It was prepared by the Muriel McQueen Fergusson Family Violence Research Center -University of New Brunswick.
- The Healing Journey: Family Violence Prevention in Aboriginal Communities Toolkit and Website <http://www.thehealingjourney.ca/>
- New Brunswick Family Violence and the workplace toolkit <http://www.toolkitnb.ca/emain.asp>
- The New Brunswick Silent Witness Project is a travelling exhibit of life sized silhouettes representing women killed by their intimate partners. The goals of the project are to remember, create awareness and promote action to end all forms of violence in our society (2001) <http://www.silentwitness.ca/>
- University of New Brunswick Family Violence Certificate Program.

### Key Reports

New Brunswick, Department of Public Safety, [\*The Domestic Violence Court Pilot Project, Moncton, New Brunswick, An Analysis of Three Years of Data Relating to Victims and Offenders\*](#) by Carole R Dilworth & Timothy G Dilworth (Fredericton: 2011).

Muriel McQueen Ferguson Centre for Family Violence Research, [\*Moncton Provincial Court-Domestic Violence Pilot Project: A Comparative Study\*](#) by Carmen Gill & Lanette Ruff (Fredericton: 2010).

New Brunswick, Women’s Issues Branch, [\*Operational Review, Moncton Domestic Violence Court Pilot Project\*](#) by Aline Saintonge & Carole Dilworth (Fredericton: 2009).

New Brunswick, Women’s Issues Branch, [\*Attitudinal Survey on Violence Against Women\*](#) by Harris/Decima (Fredericton: 2009).

New Brunswick Advisory Committee on Violence Against Aboriginal Women, [\*A Strategic Framework to End Violence Against Wabanaki Women in New Brunswick\*](#) (Fredericton: 2008).

New Brunswick, Minister’s Working Group on Violence Against Women, [\*A Better World for Women: Moving Forward 2005-2010\*](#) (Fredericton: 2005).

New Brunswick, [\*Discussion Paper: Protection of Victims of Domestic Violence: Options for Law Reform in New Brunswick\*](#) (Fredericton: 2004).

Newfoundland and Labrador
Legislative Responses
<p><b>Family/Domestic Violence Legislation</b></p> <p><u><a href="#">Family Violence Protection Act</a></u> was proclaimed July 1, 2006. It has a broader definition of violence than the <i>Criminal Code</i>. Conditions available include:</p> <ul style="list-style-type: none"> <li>• no contact;</li> <li>• exclusive possession;</li> <li>• custody;</li> <li>• requirement to make rent/mortgage payments;</li> <li>• restraining the respondent from terminating the basic services of utilities servicing the residence;</li> <li>• directing respondent to deliver to police weapons that he/she owns, possesses or controls; and</li> <li>• publication ban (applicant or child) on identifying information.</li> </ul> <p>The maximum order is a 90 day order. It is granted <i>ex parte</i> on an emergency basis.</p> <p>Prosecution is available for breach of an order made under this Act. Conviction can result in incarceration.</p> <p><u><a href="#">Children and Youth Care and Protection Act</a></u> was proclaimed June 30, 2011. It provides the legislative authority to assess and investigate information that a child is or may be at risk of maltreatment by omission or commission of the parent. While investigation of all referrals of a child in need of protection is the responsibility of the Department of Child, Youth and Family Services, investigations are completed through collaboration with the police, other professionals and community resources.</p>
Police
<ul style="list-style-type: none"> <li>• The Royal Canadian Mounted Police (RCMP) has national and divisional operational policy pertaining to Violence in Relationships.</li> <li>• The RCMP has national and divisional investigative guides and related policy.</li> <li>• Both the RCMP and Royal Newfoundland Constabulary (RNC) consider domestic violence as a priority for service and use a proactive approach to charging individuals where reasonable grounds exist.</li> <li>• Victims of crime remain a priority. Both forces maintain close liaison with Victim Services with a focus on ensuring safety plans are established; with other community-based agencies providing services to victims of violence; and with Child, Youth and Family Services (CYFS) where children are involved.</li> <li>• Both police forces partnered with Victim Services to develop police officers as trainers on the <i>Family Violence Protection Act</i> and for training on Emergency Protection Orders.</li> <li>• Both police forces train their members to recognize the power imbalance between partners in a relationship and the dynamics that operate to prevent an alleged victim from taking steps to end the abuse.</li> </ul>



### Newfoundland and Labrador

- Both police forces participate in the Violence Prevention Initiative and other Provincial Government initiatives that address family violence.

#### Domestic Violence Coordinator

- The RNC has a dedicated constable position, a Domestic Violence Coordinator (DVC). This position reports to the Sergeant in charge of the Child Abuse and Sexual Assault Unit. The DVC is responsible to:
  - Work closely with all divisions within the RNC;
  - Review and revise the RNC policy on domestic violence;
  - Ensure compliance with RNC policy on domestic violence;
  - Develop training for frontline officers;
  - Review domestic violence reports and files;
  - Follow-up with victims;
  - Track repeat victims and offenders;
  - Liaise with Victim Services, shelters, CYFS, social services, Crown attorneys and other vested groups;
  - Assist in educational seminars for vested groups;
  - Liaise with other police services;
  - Participate in media/community information seminars; and
  - Develop, implement and assess a risk assessment tool.
- All files pertaining to domestic disputes, whether or not charges are laid, are checked for content and quality by the DVC. The DVC maintains statistical data and reports on the following:
  - date of offence;
  - complainant-female/male (names/addresses);
  - action taken - if arrest, charges laid (type/number);
  - age of arrested person (name/address);
  - relationship - accused/complainant;
  - circumstances;
  - weapon involved; and
  - notification to Child Youth and Family Services.

#### Policy and Procedure

- The RNC policy pertaining to family violence identifies that one of its major goals is to deliver a coordinated and consistent response. RNC police officers are trained to recognize the power imbalance between partners in a relationship, and the dynamics that operate to prevent an alleged victim from taking steps to end the abuse. The policy states that rigorous arrest and charge policies have been shown to reduce violence committed against people by their partners.

### Newfoundland and Labrador

- The policy identifies four principles and four objectives:
  - Principles:
    - Everyone has a right to live free of violence;
    - No one deserves to be abused physically, sexually, emotionally or financially;
    - No one has the right to control another person by threat, coercion, physical intimidation or by any misuse of power; and
    - People will accept help when they are ready and the choice not to accept help must be respected.
  - Objectives:
    - Ensure the safety and security of complainants;
    - Apprehend and charge offenders;
    - Prevent a breach of the peace; and
    - Inform all concerned parties of their rights.

### Emergency Protection Orders

- The *Family Violence Protection Act* provides a mechanism by way of civil remedy to protect persons who are threatened with, or are the victims of, family violence. The Act allows a victim of family violence to apply to a Provincial Court Judge for an emergency protection order.
- Police officers have been identified within this Act as a class of persons who can make application on behalf of a victim of domestic violence. Application for these orders may be made by police officers to a Provincial Court Judge on a 24/7 basis, including statutory holidays. When an application is received at the court it is given priority and presented to the Judge immediately for review and decision. Staff and Judges are aware of the priority for these applications.
- When an officer is satisfied that "family violence" has occurred, the police officer shall inform the potential applicant of the provisions of the *Family Violence Protection Act*.
- When grounds exist to support an emergency protection order, and it would be appropriate to enhance the safety of the applicant and/or children, the police officer is trained to assist the complainant in making application for the order.

### Family Violence Investigative Report

- The RNC is testing the use of a Family Violence Investigation Report. This report is a summary of the investigating officer's file, highlighting areas regarding history, escalation and victim's perception of family violence. They also consider aggravating factors to a victim's safety. The information contained within the report may be used by the police and/or Crown attorney to draw attention to issues to be considered at the release of an accused.

## Newfoundland and Labrador

### Family Violence Training

- RNC police officers receive training in the Collaborative Approach to the Investigation of Family Violence. This training is a three day program delivered jointly by the RNC and the Department of Child, Youth and Family Services and in partnership with the Department of Social Work at Memorial University. Topics covered in the training include the following:
  - Principles of family violence;
  - Social attitudes around family violence;
  - Characteristics of abusive men;
  - The impact of violence on women (physical impacts, societal impacts, economic impacts);
  - Why do women stay;
  - Impact of violence on children;
  - What can the police do or say to children;
  - What can the social work do or say to children;
  - What are the effects of family violence;
  - Exposure to family violence and child development;
  - The impact of family violence on mothers;
  - *Family Violence Protection Act*;
  - Emergency protection orders;
  - Investigative protocol;
  - Police investigative response; and
  - Social work investigative response.

## Crown

### Policies

[The Guide Book of Policies and Procedures for the Conduct of Criminal Prosecutions in Newfoundland and Labrador](#) addresses how Crown attorneys should respond to cases involving spousal violence. This includes a section on child witnesses in cases of spousal violence. The Guide Book also makes specific reference to child victims under its Victims of Crime section.

### Protocols

The *Children and Youth Care and Protection Act* is applicable to Crown attorneys and would compel reporting in circumstances outlined in the legislation. Crown attorneys participate in joint training between the police agencies and Child, Youth and Family Services Workers relating to dealing with child victims.

## Child Protection

### Policies

The Department of Child, Youth and Family Services (CYFS) has a Risk Management Decision Making Model (RMDM) (2013) which is a mandatory decision making framework for child protection across the province. Within the RMDM manual, social workers use screening and

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response prioritization guidelines which provide specific guidance on screening and responding to family violence situations.

The Protection and In Care Policy and Procedures Manual (2011) guides the work of social workers in the delivery of child protection services. This manual includes policy direction for seeking police involvement in child protection matters and direction for social workers when making an application to the court to seek a prohibit contact order.

### Protocols

*Memorandum of Understanding on Information Sharing: A coordinated Response In Child Abuse-* outlines a process for sharing of information between the Newfoundland and Labrador Department of Child, Youth and Family Services and policing agencies on matters relating to the protection of children.

Through the CYFS Training Unit, a three day *Introduction to Family Violence* training is offered to social workers in collaboration with the RNC and the RCMP. Additional details regarding the training and the topics covered can be found under the Police section above.

## Service-Based Responses

### Victim Services

This is provided through the Newfoundland and Labrador Department of Justice and it is systems based.

The adult program is available to all victims of criminal offences, regardless of the status of the charge. Services include:

- Information on the criminal justice system;
- Supportive counselling;
- Specific information on court proceedings;
- Court preparation;
- Court support;
- Referrals to other agencies;
- Assistance with victim impact statements; and
- Safety Planning.

Once charges are laid, the full range of services can be provided to children (under 16 years of age) and their caregivers. The program focuses on providing support and preparation to children who have to testify in criminal court. The services are free of charge.

### Shelters

Newfoundland and Labrador has 12 shelters/safe houses. Shelters are operated by non-profit community organizations and are typically open to women and children who have experienced violence or are at risk of experiencing violence. The services are free of charge.

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### Programs for Children Exposed to Family Violence

Programs, either individual or group, are available to children who have witnessed domestic violence. The group programs are accessible in urban and some rural areas of the province.

### Abusive Partner Programs

The Newfoundland and Labrador Corrections branch offers a 10 week Respectful Relationships module delivered by corrections staff for low risk offenders.

Intensive programming for moderate and high risk offenders, through contracted services, are offered in two locations within the province.

### Parent & Child Education/Information

Child protection social workers provide support and education to their clients regarding the effects exposure to domestic violence has on children. Social workers may develop a plan with the family to reduce the risk of harm created by the exposure to domestic violence. In these situations information is provided regarding regionally based community services available to parents and their children (i.e. counselling services for victim of violence).

### Other Services

- The Newfoundland and Labrador Department of Advanced Education and Skills provides immediate support to women (and their children) in receipt of income who want to leave an abusive situation.
- Newfoundland and Labrador Housing has a [Victims of Family Violence Policy](#).
- Violence Awareness and Action Training (VAAT) was developed in 2001 by the Violence Prevention Initiative (VPI). It is a one-day workshop aimed at improving services to victims of violence by increasing sensitivity and awareness of service providers to the factors contributing to violence and its impact on society. Participants are provided an opportunity to examine attitudes, values and beliefs that support violence. It is designed to be co-facilitated by VPI partners and stakeholders and delivered within an inter-departmental, community/regional model to improve interagency communication, coordination and capacity building. This training is offered free of charge, across the province through VPI's 10 Regional Coordinating Committees with participants receiving a certificate issued from the VPI upon completion. There is also a two-day VAAT Train-the-Trainer workshop that supports individuals who wish to become VAAT facilitators by offering training on adult learning principles, facilitation skills, and the material to be used in a VAAT session.

## Tools/Processes to Ensure Safety

### Structured Risk Assessment Tools

The *Newfoundland and Labrador Risk Management System* Decision-Making Model (RMDM) is an assessment and case management framework used in conjunction with a social worker's

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clinical judgment to guide decision making. The tools in RMDM include:

- *Screening and Prioritization Guidelines* which assist in the screening of referrals and determining the most appropriate response time;
- *Safety Assessment* which assists in the assessment of immediate safety of the child;
- *Safety Plan* which is required if interventions are necessary to ensure safety of the child during the investigation;
- *Risk Assessment Instrument* which assists in identifying the factors which place the child at future risk of maltreatment; and
- *Family Centered Action Plan* which is used as the primary planning tool with children and families to identify interventions targeted at risk reduction.

### Coordinating Mechanisms

#### Information Sharing Protocols

There is a Memorandum of Understanding between the Newfoundland and Labrador Child Youth and Family Services and the policing agencies.

#### Family Violence Action Plans

The *Violence Prevention Initiative* of the Government of Newfoundland and Labrador reflects government's commitment to addressing the problem of violence in the province. Phase I consisted of a six year, multi-departmental, government - community partnership to find long term solutions to the problem of violence against those most at risk in our society - women, children, youth, older persons, persons with disabilities, Aboriginal women and children and other people who are vulnerable to violence because of their ethnicity, sexual orientation or economic status. The Violence Prevention Initiative is coordinated by the [Women's Policy Office](#). A Social Marketing Campaign was initiated to address youth violence, violence against the older person, child abuse reporting and respecting women. Consultations for Phase II have occurred and the information gathered will shape the initiative's second phase spanning the years 2013-2018.

#### Justice Minister's Committee on Violence Against Women

The Justice Minister's Committee on Violence against Women was formed in 2005 to enable key stakeholders to regularly meet with the Minister of Justice to share information and perspectives related to issues of violence against women. The purpose of the Committee is to provide a forum for the exchange of meaningful dialogue between government and non-government agencies working in areas affecting violence against women. The Committee forum provides an opportunity for the Minister of Justice to hear any concerns and/or happenings pertaining to violence against women directly from community organizations. It also provides the Minister with a forum for communicating developments and happenings within the Justice system to the community.

## Northwest Territories

### Legislative Responses

#### Family/Domestic Violence Legislation

The [Protection Against Family Violence Act](#), SNWT 2003, c 24, came into force in 2005. The Act increases the ability of the court to deal with family violence by:

- creating an emergency protection order and a protection order regime;
- providing for exclusive occupation of residence and property;
- providing for an order to surrender weapons to a police officer; and
- providing for an offence provision if there is a breach of a protection order.

Protection orders will limit contact and communication between family members where there is a safety risk.

#### Family Law Provisions Related to Family Violence

The [Family Law Act](#), SNWT 1997, c 18, came into force 1998. The Act provides for the timely, orderly and equitable settlement of the affairs of the spouses on the breakdown of the spousal relationship, and provides for other mutual obligations of spouses, including the equitable sharing by parents of responsibility for their children. The Act provides for restraining orders and for enforcement of the orders.

The [Children's Law Act](#), SNWT 1997, c 14, came into force 1998. The merits of an application under the Act in respect of custody of or access to a child is determined in accordance with the best interests of the child, with a recognition that differing cultural values and practices must be respected in that determination. The Act provides for restraining orders and for enforcement of the orders.

#### Child Protection Provisions Related to Family Violence

The [Child and Family Services Act](#), SNWT 1997, c 13, came into force 1998. The Act provides for the protection of children from abuse, harm and neglect. The Act recognizes that decisions involving children should be made in accordance with the best interests of children, with a recognition that differing cultural values and practices must be respected in those determinations. The Act defines "abuse" as meaning neglect or emotional, psychological, physical or sexual abuse.

### Police

#### Policies

- RCMP National Policy – Violence in Relationships Policy (see the annex on Canada).
- RCMP "G" Division Violence in Relationships Policy.
- RCMP use the ODARA (Ontario Domestic Assault Risk Assessment) on all male offenders who commit assaults on their partners.
- RCMP "G" Division is committed to training all police officers on the use of ODARA.
- RCMP keep statistics on family violence and track the statistics on the ODARA score as it relates to custodial status and do quarterly reports to the Yellowknife Interagency

## Northwest Territories

Protocol Committee.

- Complainants are to be informed upon release of offender.

### Protocols

**The Yellowknife Interagency Family Violence and Abuse Protocol** is an agreement among agencies to improve responses to adult victims of family violence. The Protocol describes how agencies will respond to adult victims of family violence and interact with each other. By following the Protocol, the agencies expect to offer a seamless and coherent response to adult victims of family violence. The Yellowknife Interagency Family Violence and Abuse Protocol was a pilot project that was called for in the Government of the Northwest Territories' response to the Northwest Territories' Action Plan on Family Violence (2003-2008). In 2006, the Government of the Northwest Territories renewed the action plan (see below).

Agencies involved with the Protocol have included:

- Yellowknife RCMP;
- Yellowknife Victim Services;
- Public Prosecution Service of Canada, Northwest Territories Regional Office;
- Stanton Territorial Health Authority;
- YWCA Alison McAteer House;
- Yellowknife Health and Social Services Authority;
- GNWT Seniors Society;
- Yellowknife Housing Authority;
- NWT Seniors Society;
- Centre for Northern Families; and
- Government of the Northwest Territories (Justice, Health and Social Services, Education, Culture and Employment).

The RCMP are designates under the *Protection Against Family Violence Act*. They, along with the Government of the Northwest Territories' Department of Justice, representatives from Alison McAteer House and the Justice of the Peace Office meet regularly to discuss issues of common concern.

The RCMP is also a member of the following relevant committees and protocols:

- The Coalition Against Family Violence Committee (see below);
- The Domestic Violence Treatment Option (DVTO) Court committee. The RCMP, along with members of the Crown's office, Government of the Northwest Territories' Department of Justice, legal aid, the court registry staff, probation services, and the judiciary meet periodically to discuss DVTO Court; and
- The Child Abuse Protocol (see below).

RCMP "G" Division has established a dedicated family violence position. This position is intended to:



### Northwest Territories

- Provide a resource to police on the issue of family violence;
- Provide leadership and mentoring to police who are investigating and/or managing high-risk family violence cases; and
- Monitor and take action to address concerns related to police response to family violence, as well as represent the police on family violence committees and initiatives.

### Crown

#### Policies

#### **Federal Prosecution Service Deskbook, Chapter 28 Spousal Violence Policy**

This policy relates to spousal violence and is intended to reflect the special circumstances of Canada's three territories. In small northern communities options available to the victims of spousal violence may be limited, for example:

- a. the victim may not have access to the same types of support often found in southern Canada, such as emergency shelters or counselling services;
- b. the victim may face pressure in the community not to report the crime; and
- c. absolute prohibitions on contact with the alleged abuser may be unrealistic in a small isolated community.

The policy places primary responsibility for decision-making with the police and Crown counsel rather than with complainants. At all stages of the criminal process, Crown counsel shall engage in appropriate consultation with the police and the complainant to ensure that the complainant is protected, informed and supported.

The policy seeks to guide Crown counsel's discretion, not remove it. Crown counsel must consider and apply other Deskbook policies, including the "Decision to Prosecute" (Chapter 16) and "Victims of Crime" (Chapter 29) policy while bearing in mind the strong public interest in the denunciation and deterrence of spousal violence.

The policy has specific considerations on bail (28.4). Crown counsel should require from police sufficient information to determine whether releasing the alleged offender from custody would be an unreasonable risk to the safety of the complainant. In some instances if the offender is not detained, the complainant and her children will be forced to leave the family home. Where the court is satisfied that the offender could be released, some restrictions will ordinarily be necessary both to ensure the security of the complainant and preserve the integrity of the prosecution. The policy sets out suggested restrictions. Where the accused is released from custody, reasonable efforts should be made to provide a copy of the release terms to the complainant as soon as practicable.

Chapter 30 of the PPSC Deskbook deals with Parental Child Abduction. The intent of the guidelines is to assist in the uniform application of ss. 282 and 283 of the *Criminal Code*. They are directed to police and Crown counsel to advise when and how charges may be laid.

## Northwest Territories

**Crown Witness Coordinators** assist in all cases of family violence. Crown Witness Coordinators coordinate services to victims of family violence with victim services workers in the communities.

### Protocols

The Public Prosecution Service is also a member of the following relevant committees and protocols:

- The Yellowknife Interagency Protocol Committee (see above);
- The Domestic Violence Treatment Option (DVTO) Court committee (see below); and
- The Child Abuse Protocol (see below).

## Child Protection

### Protocols

**The Child Abuse Protocol** provides a coordinated response to reported child abuse by the Government of Northwest Territories' Departments of Health and Social Services, Education, Culture and Employment, Justice, the RCMP and the Public Prosecution Service of Canada in the reporting, investigation, prosecution and follow-up of a report of suspected child abuse. It states the specific agreements between and among departments and agencies as to roles and information sharing.

## Service-Based Responses

### Victim Services

- Victim services provides assistance and support for victims of crime and tragedy. Community organizations are funded by the Department of Justice to provide local victim services programs. Local victim services program coordinators and volunteers provide victims of crime with:
  - Information
  - Assistance
  - Support
  - Referrals
- Victim Services provide help to victims at the time of an offence, throughout the court process and afterwards.
- Victim Services workers can help victims with safety planning and completing a [Victim Impact Statement](#). They can go with the victim to the hospital and/or to court.
- Although not all communities in the Northwest Territories have victim services programs, a victim can still receive information and support from a victim services worker over the phone.

### Abusive Partner Programs

As part of the Family Violence Action Plan: Phase II, a 24 week narrative, strength-based program has been researched and developed for men who use violence in their intimate relationships. The Wek'eah Kaa (A New Day) Healing Program is available to men over the age

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<p>of 18 years of age who have been violent toward their intimate partner. Participants may be self-referred, referred by an organization or agency, or mandated to attend by the courts. Men meet with program staff, and together they discuss strengths, resources and requirements to reach their goals. A treatment plan will be made including referrals to other programs and preparations for group sessions with other men which span 20 weeks.</p>
Court-Based Responses
<p><b>Domestic Violence Court</b></p> <p><b>The Domestic Violence Treatment Option (DVTO) Court</b> recognizes that domestic violence is learned behaviour that can be changed. The DVTO court allows low risk offenders to take responsibility for their behaviour and participate in an eight week program to receive support and referrals for additional counselling. Cases are fast tracked in DVTO Court. The majority of participants are required to complete an 8 session psycho-educational program geared toward healthy relationships.</p> <p>The Domestic Violence Treatment Option (DVTO) Court committee membership consists of RCMP, along with members of the Crown's office (Crown counsel), Government of Northwest Territories' Department of Justice, legal aid, the court registry staff, probation services, and the judiciary. Members meet periodically to discuss DVTO Court.</p> <p>DVTO Court is held in Yellowknife and is primarily available to offenders in the Yellowknife region, although offenders from other regions will be accepted into the program if they commit to commuting for this purpose.</p> <p>Offenders accepted into the program must first undergo an assessment before acceptance in to the program and this includes a Spousal Assault Risk Assessment (SARA) and questionnaire.</p>
Tools/Processes to Ensure Safety
<p><b>Structured Risk Assessment Tools</b></p> <ul style="list-style-type: none"> <li>• ODARA (Ontario Domestic Assault Risk Assessment) is done on all male offenders charged with spousal violence. RCMP and Crown counsel are trained in the use of ODARA. Victim Services and Shelter workers are also trained in the use of ODARA.</li> <li>• SARA (Spousal Assault Risk Assessment) is done for all offenders being considered for the DVTO (Domestic Violence Treatment Option) Court program.</li> </ul> <p><b>Checklists</b></p> <ul style="list-style-type: none"> <li>• Show cause checklist.</li> </ul>
Coordinating Mechanisms
<p><b>Inter-Agency Protocols</b></p> <ul style="list-style-type: none"> <li>• Yellowknife Interagency Family Violence and Abuse Protocol (see above).</li> <li>• The Sahtu Region has completed preliminary interagency protocol work.</li> </ul>

### Northwest Territories

- Fort Simpson, Fort Smith and Inuvik are currently developing interagency protocols.
- Child Abuse Protocol (see above).

#### Action Plans and Coalitions

During the first phase of the Action Plan (2003-2008) the *Protection Against Family Violence Act* (PAFVA) was enacted, preliminary work was completed on the Yellowknife Interagency Family Violence Protocol, staff positions dedicated to addressing family violence were created at the Departments of the Executive and Justice, and next steps for developing programming for persons who use violence in their intimate partner relationships was completed.

Phase II: (2008-2012) Key initiatives included:

- Stabilizing existing shelters;
- Enhancing community services;
- Implementing a risk assessment tool (ODARA) – as per spousal assault policy in G RCMP; shelter workers and victim service workers; and
- Developing a program for men who use violence.

Ongoing priorities include:

- piloting and evaluation of the newly developed 24 week program for those who use violence (see above);
- family violence social marketing campaign designed to address attitudes and change behaviours; and
- community outreach to non-shelter regions.

**The Coalition Against Family Violence Committee** is designed to:

- Increase awareness of family violence issues for Northwest Territories residents;
- Work collectively to reduce the incidence of family violence and to more effectively respond to family violence in the Northwest Territories; and
- Undertake specific actions and initiatives to address family violence issues and the needs of those people affected by family violence.

### Key Reports

- In 2010, the Centre for Response-Based Practice conducted an emergency protection order transcript analysis. This research examined the type of social responses victims received when seeking emergency protection.
- In 2011, Malatest & Associates Ltd. released the Final Report on the *Protection Against Family Violence Act*. Recommendations from this report are being examined by the Government of the Northwest Territories.

<b>Northwest Territories</b>
<b>Data Collection</b>
The RCMP do quarterly reporting of statistics on the use of ODARA by community.

## Nova Scotia

### Legislative Responses

#### Family/Domestic Violence Legislation

The [Domestic Violence Intervention Act](#) offers the option of 30-day Emergency Protection Order (EPO) in specific situations of intimate partner violence.

Amendment to the *Residential Tenancies Act* as part of the Domestic Violence Action Plan have been passed and proclamation is expected in early fall 2013. An amendment will allow for a victim of domestic violence to leave a lease early without financial penalty in cases of domestic violence.

#### Family Law Provisions Related to Family Violence

In the spring 2012 session, the [Maintenance and Custody Act](#) was [amended](#) to include a definition of family violence and a list of best interest of the child factors that includes a requirement to consider family violence when making custody and access determinations.

#### Child Protection Provisions Related to Family Violence

Section 22(2) of the [Children & Family Services Act](#) (CFSA) states that a child may be in need of protective services where: “the child has suffered physical or emotional harm caused by being exposed to repeated domestic violence by or toward a parent or guardian of the child, and the child’s parent or guardian fails or refuses to obtain services or treatment to remedy or alleviate the violence”.

## Police

#### Policies

The Framework for Action Against Family Violence sets out the following policy guidelines for police:

- Immediately refer by dispatch all reported cases of domestic violence;
- Respond to and fully investigate all domestic violence cases;
- Conduct comprehensive case management (including evidence gathering) at the scene to reduce reliance on victim testimony;
- Immediately refer to victim support services and escort safe passage;
- In all cases where children are present, will send notice to child welfare for follow up;
- Charges are to be laid in all cases where reasonable grounds or evidence supports charges;
- The alleged perpetrator is to be arrested and removed from the home in all cases where a charge is laid;
- Where there is a history of abuse or the victim fears for their safety, police shall not release on an appearance notice or promise to appear, but will hold until a bail hearing before a justice of the peace or judge of the provincial court;
- Police shall request protective conditions at bail hearing.

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<p><b>Protocols</b></p> <p>The police agency/RCMP detachment shall develop written protocols with each primary service provider in their jurisdiction relating to referral, information sharing, case management and monitoring relating to high risk cases of domestic violence (High Risk Case Coordination Protocol Framework).</p>
Crown
<p><b>Policies</b></p> <p>The Framework for Action against Family Violence provides that:</p> <ul style="list-style-type: none"> <li>• The Crown will prosecute all spousal/intimate partner violence cases where there is a realistic prospect of conviction regardless of the complainant's expressed wish to the contrary;</li> <li>• The Crown will provide pre-charge advice to police when requested;</li> <li>• If the accused is released, the Crown will request protective conditions and a copy of the documents will be forwarded to the complainant immediately after the bail hearing;</li> <li>• In taking a position on bail, the Crown will consider any risk assessment tool provided to the Crown by the police investigator; and</li> <li>• The Crown will notify victim services of any trial date and provide contact information for complainant and indicate the existence of domestic violence.</li> </ul> <p>Crown policies are online: <a href="http://gov.ns.ca/pps/ca_manual.htm">http://gov.ns.ca/pps/ca_manual.htm</a></p>
Corrections
<p><b>Policies</b></p> <p>The Framework for Action against Family Violence provides that:</p> <ul style="list-style-type: none"> <li>• Corrections officers will ensure that victims are informed about the terms of the probation orders and conditional release;</li> <li>• Presentence reports will include results of victim interviews, wherever possible;</li> <li>• Probation officers will identify for the court the availability of intervention programs for perpetrators of family violence;</li> <li>• Victims shall be contacted when the conditional release of an inmate from custody is being contemplated (or when an inmate is unlawfully at large);</li> <li>• Probation order conditions shall be carefully monitored and all violations reported immediately to the Crown; and</li> <li>• Police shall be informed in advance of any release of an inmate who is known to be a perpetrator of family violence.</li> </ul>
Child Protection
<p><b>Protocols</b></p> <p>High Risk Case Coordination Protocol Framework: Provides for sharing of critical information in cases that have been designated High Risk for repeated violence or lethality.</p>

## Nova Scotia

### Service-Based Responses

#### Victim Services

- The Child Victim/Witness program at the Department of Justice, Victim Services, provides specialized support and court preparation to child victims/witnesses. There is a policy in place to provide priority service to cases of domestic violence.
- The Department of Justice, Criminal Injuries Counselling Program provides counselling awards to victims of violent crime including victims of domestic violence.
- Police-based victim services in Halifax Regional Municipality is mandated to respond to domestic violence cases.
- Police-based victim services administered domestic violence emergency response alarm systems (DVERS) for high risk domestic violence households.
- Mi'kMaw Legal Support Network provides a range of specialized victim services to Aboriginal victims of domestic violence in communities throughout Nova Scotia.
- Police-based domestic violence case coordinators, funded by the Nova Scotia Department of Justice, provide case management support for domestic violence cases with particular attention to cases in the High Risk Case Coordination Protocol Framework.

#### Shelters

Transition House Association of Nova Scotia – 13 shelters throughout Nova Scotia provide a range of in-house, second-stage housing and community outreach programmes for assaulted women.

#### Programs for Children Exposed to Family Violence

The Department of Justice, Victim Services, Criminal Injuries Counselling program funds counselling sessions for children exposed to domestic violence. Upon approval by the Director, children may receive counselling funding of up to \$2,000 paid directly to an approved therapist of the parents' choice.

#### Abusive Partner Programs

Six Men's Intervention Programs in Nova Scotia provide a range of group and individual counselling to men who have been abusive in their relationships. Programs are funded by the Department of Community Services. There is no standard program offered, each agency operates independently.

#### Supervised Access

Supervised access and exchange programs are offered through the Supreme Court Family Division (SCFD) in Halifax and Sydney. Programming is delivered by local community agencies. Currently, through funding from Justice Canada, the Nova Scotia Department of Justice is expanding its supervised access to the Family Court locations in Nova Scotia using a similar model.



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### Parent Education/Information

Parent education programming is mandatory in the SCFD. The program is delivered at the court site by trained volunteer facilitators. In Family Court sites, parent education programming is voluntary.

### Child Education/Information

- Programming varies throughout regions: small group programming for children witnesses of domestic violence is available through some Transition House Association of Nova Scotia member agencies.
- Alice Housing (Second Stage Housing) delivers “Healing the Bruises” counselling program to children of residents.

### Other Services

- The Department of Community Services funds a range of services delivered through family resource centres, boys’ and girls’ clubs, women’s centres, and the Avalon Sexual Assault Centre.
- The Immigrant Settlement and Integration Services (ISIS) offers counselling and small group information sessions about domestic violence.
- The amendment to the *Residential Tenancies Act* is being considered as part of the Domestic Violence Action Plan. An amendment would allow for a victim of domestic violence to leave a lease without financial penalty in cases of domestic violence.
- The Department of Community Services provides early access/priority transfer within non-profit housing to victims of domestic violence, upon application and supporting documentation from identified service providers (such as victim services, for example).
- The Department of Community Services Income Assistance can provide limited access to funds for victims of domestic violence to increase safety - to relocate or install telephone equipment for DVERS alarm installation, for example.
- The Legal Information Society of Nova Scotia publication “[Safely on Your Way](#)” is a guide for women in Nova Scotia who have experienced domestic violence and who are also working through family justice issues such as custody and access with an abusive partner.

## Court-Based Responses

### Domestic Violence Court

The Domestic Violence Court Program (DVCP) is a pilot project in Sydney, Nova Scotia which opened in June 2012. This is an early intervention court offering early access to intervention programs. Core programming developed in British Columbia includes a 10-week psycho-educational program called “Respectful Relationships” and the more intensive 17-week therapeutic intervention, the “Relationship Violence Program”. “Respectful Relationships” is co-facilitated by community agency and community corrections staff. In order to qualify for the DVCP, the offence must be eligible for a community disposition (e.g. no offences for which a there is a mandatory minimum sentence).

## Nova Scotia

### Integrated Domestic Violence Courts

There are no integrated domestic violence courts at this time. A draft protocol based on the former Newfoundland and Labrador Family Violence Court is being considered as part of the DVCP pilot project but is not yet in effect.

## Tools/Processes to Ensure Safety

### Structured Risk Assessment Tools

The ODARA risk assessment tool is used by all police agencies in Nova Scotia – it is provided to the Crown in brief and provided to Corrections at sentencing, if there is a conviction.

If the ODARA score is 7+, cases are designated for specialized case management in Nova Scotia's High Risk Case Coordination Protocol Framework. Information may then be shared with identified primary service providers: police and police-based domestic violence case coordinators, victims services, child protection, corrections, transition house association member agency and men's intervention programs based on local protocols.

The Jacqueline Campbell Danger Assessment is used by community agencies such as transition house member agencies, child protection and victim services. Results are shared if score requires designation of case for case management in the High Risk Case Coordination Protocol Framework.

### Checklists

Police domestic violence pocket guide exists to help police follow directions in the Framework for Action Against Family Violence – it contains instructions for child protection referrals, dominant aggressor policy application, and ODARA instructions (among other things).

### Screening for Family Violence

As part of the differential response in family justice pilot projects, which include the development of a parent information program for parents in high conflict, an early case assessment tool has been developed to help family court officers identify cases that are high conflict in order to offer appropriate and timely services. Training sessions have been held with court officers and other justice partners.

## Coordinating Mechanisms

### Information Sharing Protocols

The High Risk Case Coordination Protocol Framework is a protocol of the Departments of Justice and Community Services to allow for the sharing of critical information between primary service providers in cases that are identified as high risk through risk assessment. Critical information is defined as:

- a perpetrator is alleged to have committed another offence;
- an accused is released by police;
- contact occurs between the perpetrator and the victim;

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- a perpetrator is released on conditions that prevent contact with the victim/children;
- the victim enters a new relationship or relocates;
- a perpetrator breaches a court order;
- either the victim or the perpetrator takes an action that is contrary to an agreed safety plan or intervention;
- an application is made for an emergency protection order, peace bond or a Domestic Violence Emergency Response System alarm is activated;
- trial or sentencing dates are approaching;
- an offender is released from custody at the end of a sentence; or
- legal proceedings related to children are initiated.

Primary services providers are: police and police-based domestic violence case coordinators, victim services, child welfare, corrections, transition house association of Nova Scotia member agency and men's intervention programs.

#### Inter-Agency Protocols

Interagency Committees on Family Violence – comprised of child welfare, transition house, police, health, and men's intervention programs – operate in several larger communities throughout Nova Scotia. Their function is primarily to maintain communication between agencies. Larger groups in Sydney and Halifax undertake public education campaigns about domestic violence and host workshops, lectures and large-scale public events.

#### Coordinating Committees

High Risk Case Coordination Protocol Committees operate in each Nova Scotia county (18). They are comprised of the six primary service providers named in the Protocol Framework with the addition of specialized service providers in specific communities (such as Aboriginal service providers in First Nation territories).

#### Family Violence Action Plans

The Framework for Action Against Family Violence (1996) governs policy responses for all divisions in the Department of Justice and requires specialized responses to cases of domestic violence. This includes Nova Scotia's pro-arrest, pro-charge and pro-prosecution policy.

The [Domestic Violence Action Plan 2010](#) is a comprehensive cross-government plan to address domestic violence. Features include four broad areas of focus:

- Ongoing collection of first hand experiences called the Dialogue on Domestic Violence project which uses Sensemaker software and an online collection tool to gather stories about domestic violence from perpetrators, victims, family members, service providers and others.
- Community-Government Networking sessions to support dialogue and collaboration between government departments and agencies and community-based service providers

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- Research and Evaluation Partnership to promote and improve access to research on the issue and ensure ongoing monitoring and evaluation.
- Training Partnership on domestic violence to develop a consistent, coordinated approach to training on this issue across government and in the community.
- Neighbours, Friends and Family Campaign materials from Ontario have been adapted for use in Nova Scotia and training promoting this campaign has been provided.

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### Legislative Responses

#### Family/Domestic Violence Legislation

The [Family Abuse Intervention Act](#) (FAIA), which came into force March 1<sup>st</sup>, 2008, is designed and aimed to provide the residents of Nunavut with the tools to holistically intervene and to prevent abuse by focussing on the immediate need for safety, with efficient and effective processes which are consistent with cultural values. The paramount objective of this Act is to promote the safety of residents of Nunavut.

The *Family Abuse Intervention Act* will also be able to deal with Elder abuse, which is not often brought to light in the current criminal justice system. This civil law deals with all family members. This Act attempts to revive that sense of responsibility with all the resource people and encourages all (children, adults, and Elders) to pick up their roles again, to be gentle with each other, and to share with each other.

The Act promotes ownership of the problem; it promotes solutions and empowers the community to be confident in working with the local resources to address all the social issues that face their community.

FAIA is a civil Act that provides assistance to related people needing:

- An Emergency Protection Order (EPO) to be safe from the immediate harm of abuse; or
- A Community Intervention Order (CIO) to seek counselling for the development of safer, healthier relationships.

The Saillivik Program is offered by the Government of Nunavut's Department of Health and Social Services. Services offered through the Saillivik Program are meant to protect and support victims of family violence, and provide viable responses to family violence issues. Under the Saillivik Program, social workers can help move women and children away from family violence. Depending on the family's situation, social workers will help a family get help through the *Family Abuse Intervention Act* or move family members to a safe place, such as Family Violence Shelter or Community Safe Home.

#### Family Law Provisions Related to Family Violence

*Family Law Act*, SNWT 1998, c 34 – In force April 1st, 1999.

#### Child Protection Provisions Related to Family Violence

The [Child and Family Services Act](#) SNWT 1997, c 13, is based on guiding principles including: that all decisions or actions should be in the best interest of the child; protection of children; maintaining cultural identity; and that the family has primary responsibility, involving extended family members. The Act introduces a mandatory reporting requirement for all Nunavut residents who suspect child abuse. Abuse is defined to include emotional abuse which constitutes a child as being in need of protection. According to the Act, a person who has reason to believe that a child is in need of protective intervention shall immediately report the

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information on which they base their belief to a director or peace officer. Recent comprehensive reviews of the child protection system have called for significant changes in the way child protection services are provided to children, youth and families in Nunavut. The recommendations are contained in the following public reports:

- the *Final Report of the Knowledge Sharing Forum, A Review of Child Welfare Practices in Nunavut* (February 2010);
- the *Social Services Review Final Report* (October 2011); and
- the *Report of the Auditor General of Canada to the Legislative Assembly of Nunavut – 2011: Children, Youth and Family Programs and Services in Nunavut* (March 2011).

The Act will be amended, taking into the account the recommendation made in the above reports.

Under the guidance of the *Child and Family Services Act*, community social service workers are responsible for the protection of children, youth, and their families. Notably, the Act provides the Department of Health and Social Services (HSS) with the authority to investigate notifications of children in need of protection, and to take action to ensure the children's well-being, including, if necessary, to remove them from the parental home. The Act also outlines additional services available to families where child apprehension is not (yet) necessary.

### Police

#### Policies

**RCMP National Policy – Violence in Relationships Policy** (see the Annex on Canada).

The RCMP is a member of the Child Abuse Response Protocol, 2004 (see below).

### Crown

#### Policies

**Federal Prosecution Service Deskbook, Chapter 28 Spousal Violence Policy**

This policy relates to spousal violence and is intended to reflect the special circumstances of Canada's three territories. In small northern communities options available to the victims of spousal violence may be limited, for example:

- a. the victim may not have access to the same types of support often found in southern Canada, such as emergency shelters or counselling services;
- b. the victim may face pressure in the community not to report the crime; and
- c. absolute prohibitions on contact with the alleged abuser may be unrealistic in a small isolated community.

The policy places primary responsibility for decision-making with the police and Crown counsel rather than with complainants. At all stages of the criminal process, Crown counsel shall engage in appropriate consultation with the police and the complainant to ensure that the complainant

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is protected, informed and supported.

The policy seeks to guide Crown counsel's discretion, not remove it. Crown counsel must consider and apply other Deskbook policies, including the "Decision to Prosecute" (Chapter 16) and "Victims of Crime" (Chapter 29) policy while bearing in mind the strong public interest in the denunciation and deterrence of spousal violence.

The policy has specific considerations on bail (28.4). Crown counsel should require from police sufficient information to determine whether releasing the alleged offender from custody would be an unreasonable risk to the safety of the complainant. In some instances if the offender is not detained, the complainant and her children will be forced to leave the family home. Where the court is satisfied that the offender could be released, some restrictions will ordinarily be necessary both to ensure the security of the complainant and preserve the integrity of the prosecution. The policy sets out suggested restrictions. Where the accused is released from custody, reasonable efforts should be made to provide a copy of the release terms to the complainant as soon as practicable.

Chapter 30 of the PPSC Deskbook deals with Parental Child Abduction. The intent of the guidelines is to assist in the uniform application of ss. 282 and 283 of the *Criminal Code*. They are directed to police and Crown counsel to advise when and how charges may be laid.

The prosecution service is a member of the Child Abuse Response Protocol, 2004 (see below).

## Child Protection

### Protocols

**Child Abuse Response Protocol, 2004** – the signatories are: Government of Nunavut – Health and Social Services, Education and Justice, Justice Canada (who represented the Public Prosecution in 2004), and RCMP V Division. This agreement is based on principle that successful investigations into reports of child abuse require collaborative action by the agencies responsible for the health, education, protection and support of children at risk. The protocol covers all stages of child abuse investigation including: receiving reports; interview process; laying of charges; court process; and roles and responsibilities of RCMP, Family and Children's Services and the Crown.

## Service-Based Responses

### Victim Services

**Crown Witness Coordinators (CWC) – Public Prosecution Service Canada:** The CWC program is unique to Canada's three northern territories – Yukon, Northwest Territories and Nunavut. CWCs typically liaise and share information with Crown prosecutors, locate victims and witnesses involved in court cases, prepare victims and witnesses for court, support and accompany victims and witnesses during their court process and, when appropriate, refer them to supportive community services.

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The *Victims of Crime Act* of Nunavut establishes the Victims Assistance Fund and provides for the appointment of a Victims Assistance Committee. The Victims Assistance Fund is a special purpose fund maintained with revenue from victim fine surcharges. The Victims Assistance Fund does not provide direct financial compensation to individuals but it supports community-based projects and activities that provide services and assistance to victims of crime through:

- **Training** geared toward sensitizing and informing community resources workers as to the needs and circumstances of victims of crime;
- **Direct Services** that assist victims through crisis response, personal support, follow-up assistance, victim information and systems referral;
- **Public awareness** and information on the rights and responsibilities of victims, available services, the criminal justice system and its procedures and any issues relating to victims of crime; or
- **Research** into and the distribution of information about services to victims and the needs and concerns of victims.

The disbursements are made according to proposals submitted by the applicant who wishes to carry out projects in their community regarding victims of crime. These types of programs do not exist in Nunavut.

In 2011, the Federal Minister of Justice announced funding of \$1.3 million over five years to benefit and assist the Government of Nunavut in advancing victims services and access to justice for victims of crime in Nunavut. The funding is to assist families of victims of homicide and victims of other serious crimes to attend court hearings.

### Shelters

- The Department of Health and Social Services (HSS), from the Social Services side, runs the Family Violence Prevention Program which includes shelter provisions to women and their children fleeing violence and social services support to clients who are victims of family violence.
- Through the Department's Saillivik Policy, HSS provides funding to family violence shelters in a number of communities in the Territory. Currently there are four shelters which are operational in Nunavut, these are in: Iqaluit, Rankin Inlet, Kugluktuk, and Cambridge Bay. Qimaavik in Iqaluit is the largest family violence shelter facility in Nunavut with a 21 bed capacity and 24/7 service. The shelter houses women from other communities, who are either referred through social service workers, justice workers or by self-referral.
- Under its Family Violence Prevention program, HSS also runs the Community Safe Home program, recruiting and funding safe homes in communities where women and their children who are victims of violence can temporarily stay, thereby minimizing the disruption to their lives. Currently six communities are participating in the safe home



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program. The Department's aim is to establish at least one safe home in each community.

- The Nunavut Housing Corporation (NHC) Homeless Shelter Policy aims to assist communities in identifying specific homelessness issues and developing appropriate responses and initiatives. The policy stipulates that NHC may donate one housing unit to every community for use as a temporary or emergency homeless shelter, with the community developing a business plan for the resources and the funds to operate the shelter.

### Programs for Children Exposed to Family Violence

- Under the Department of Executive and Intergovernmental Affairs (EIA), the Social Advocacy Office is the lead in creating an independent Child and Youth Representative to ensure that Nunavut's children and youth are being adequately served by government. The goal is to have a fully operational Child and Youth Representative established by 2014.
- The RCMP is responsible for the Aboriginal Shield Program (ASP) which has taken place in Nunavut. The goal of this program is to help Aboriginal youth make healthy and informed choices when it comes to drugs and alcohol. This program also includes information on social challenges and how to deal with such challenges.
- The Mianiqsijit Project in Baker Lake offers the following services: counselling services and services to children and youth, awareness raising at schools, and counselling to those affected by family violence. Other available services include advocacy, counselling, court accompaniment, crisis/distress line, safety planning/risk assessment, self-help support groups, and services for seniors, victim impact statements, and victim and witness preparation.

### Abusive Partner Programs

The Rankin Inlet Spousal Abuse Program gives couples the option of working together to resolve issues, and it offers support specifically to men. Most clients are referred by the court, while some are referred by Crown prosecutors on a post-plea basis. Victims are usually the spouses of abusers referred by the court. When appropriate, the couple is counselled together. The counsellors also hold group sessions for men.

### Parent Education/Information

The Department of Health and Social Services runs health promotion programs which are directly or more indirectly linked to family violence prevention. Many of these community-oriented programs that focus on family health and wellness are funded by the federal government, with funds being administered by the Department. Examples include and Foetal Alcohol Spectrum Disorder (FASD) initiative, the Canada Prenatal Nutrition Program (CPNP), the Brighter Futures Program and nutrition and parenting program.

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### Other Services

- The Department of Justice funds the Isumaqsungittut youth centre which is a community-based service located in Iqaluit and offers a variety of services for young offenders, including life skills, anti-reoffending and reintegration programs and alcohol and drug abuse programs. There is a psychologist on staff and offenders have access to a community wellness counsellor.
- The Baffin Correction Centre is currently running a number of programs developed to meet the needs of offenders, including programs that explore alternatives to violence, promote Inuit cultural activities and provide offenders counselling from local Elders. Their current priority is to develop programs and activities for the remand population, which outnumbers those sentenced. A few of the programs offered are: the Tuqqaavik Program, the Inuit Cultural Skills Program, and the Katak program. The Tuqqaavik Program focuses on areas of skills development, parenting and grief and loss. The Inuit Cultural Skills Program focuses on teaching and developing both traditional and current hunting skills while developing self-esteem and knowledge about traditional culture. The Katak program provides individual programming for offenders based on their mental health issues and needs.
- The Department of Health and Social Services' Mental Health and Addictions services offer diagnosis and treatment for Nunavummiut with anger or violent behaviour issues. In addition, the community, regional and out-of-territory mental health services address drug, alcohol or gambling addictions, and a wide array of mental health disorders. The programs, services, resources and personnel are selected and delivered in a culturally appropriate manner.
- The Cambridge Bay Wellness Centre which includes a shelter for women who are victims of family violence, also offers wellness programs which can be accessed by individuals within the community. It offers services to both victims and perpetrators; the majority of clients are court ordered to take programs.
- The Qullit Nunavut Status of Women Council advocates for the equality and well-being of women in Nunavut. The council identified four main priorities for 2011-2012, including violence against women, family wellness, women and justice, and women in leadership.

### Court-Based Responses

#### Domestic Violence Court

**Domestic Violence Treatment Option:** There are no domestic violence courts or integrated domestic violence courts in Nunavut. There is a court-based abusive partner program operating in one community in Nunavut. It has been in operation for in excess of ten years. The Rankin Inlet Spousal Abuse Program allows any person who has been charged with a minor spousal assault to be referred to the program by the court following the entry of a guilty plea but before sentencing happens. The program includes 6 one-hour sessions of individual counselling and 29 two hour group sessions held twice weekly. The program lasts 15-17 weeks. Upon successful completion of the program, the court is requested to dispose of the criminal charge

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<p>by means of the imposition of a conditional discharge including the imposition of a probation order with a condition that the offender keep the peace and be of good behaviour towards the victim. Signatories include the Pulaarvik Kablu Friendship Centre, Public Prosecution Service of Canada and Legal Services Board of Nunavut.</p>
Tools/Processes to Ensure Safety
<p><b>Structured Risk Assessment Tools</b></p> <p>Both the RCMP and the Public Prosecution Service of Canada Crown Witness Coordinators use Risk Assessment Tools/Checklists when dealing with reports of domestic violence and dealing with witnesses/victims of domestic assault.</p>
Coordinating Mechanisms
<p><b>Information Sharing Protocols</b></p> <p><i>Access to Privacy and Information Protection Act (ATIPP).</i> The ATIPP Act provides members of the public with a legal right to access to information held by public bodies including government departments and offices but also provides limited exceptions to the right of access of certain records.</p> <p><b>Coordinating Committees</b></p> <p>Within the Government of Nunavut, there are interdepartmental Working Groups, in order to improve coordination/collaboration/information sharing.</p> <p>The Government of Nunavut has a Quality of Life Committee which is a Deputy Minister led committee focussing on social policy issues, and through formal memorandums of understanding between departments.</p>
New Initiatives (Non-Justice)
<p><b>Nunavut Child and Youth Representative:</b> this position has not been filled yet. The Child and Youth representative would help individual children and youth who have concerns about services provided to them by the Government of Nunavut (GN) and certain agencies. The Representative would also review actions, programs, policies and services of government and agencies that affect children and youth. A representative would not have the power to order the government to take action, but they could advise and make recommendations to the government. These would usually be in the form of public reports. In this way, the office has some similarities to that of an Ombudsman. Children and youth could contact the Representative for help if they feel their interests or views are not being considered, or if they have a concern about services offered to children and youth. Adults could also contact the Representative with concerns about children or youth.</p>

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Key Reports
Office of the Auditor General of Canada, <a href="#"><i>Report of the Auditor General of Canada to the Legislative Assembly of Nunavut-2011 Children, Youth and Family Programs and Services in Nunavut</i></a> (Ottawa: 2011).
<a href="#"><i>A Plain Language Guide to the Nunavut Land Claims Agreement</i></a> (Iqaluit: 2004).

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Legislative Responses
<p><b>Children’s Law Reform Act</b></p> <ul style="list-style-type: none"> <li>• Section 35 – Order Restraining Harassment.</li> <li>• Subsection 21(2) – Requires application for custody or access to a child be accompanied by an affidavit that includes information concerning any current or previous child protection or criminal proceedings.</li> <li>• Subsection 24(4) – A person’s history of family violence is a relevant consideration in a custody or access application.</li> <li>• Section 34 – A court may order custody or access to a child to be supervised by a specified person or organization.</li> </ul> <p><b>Child and Family Services Act</b></p> <ul style="list-style-type: none"> <li>• Section 57 – Order where Child in Need of Protection.</li> <li>• Section 72 – Duty to Report a Child in Need of Protection.</li> <li>• Section 80 – Restraining Order.</li> </ul> <p><b>Family Law Act</b></p> <ul style="list-style-type: none"> <li>• Subsection 24(3)(f) – Requires a court, when determining an application for exclusive possession of the matrimonial home, to consider any violence committed by a spouse against the other spouse or the children.</li> <li>• Section 46 – Restraining Order.</li> </ul>
Police
<p><b>Policies</b></p> <p>The Ministry of Community Safety and Correctional Services (MCSCS) developed the Policing Standards Manual, which contains guidelines to assist police services with the development of their own policy/procedures in their implementation of the <i>Police Services Act</i> (the “Act”). The guidelines are advisory in nature and include the following:</p> <p><b>Domestic Violence Occurrences (LE-024)</b></p> <ul style="list-style-type: none"> <li>• Section 1 requires police services to establish and maintain one or more domestic violence coordinating committees. The partnership is to be formed with the police service’s local Crown, probation and parole services, Victim/Witness Assistance Programme (VWAP), Victim Crisis and Referral Service (VCARS), municipalities, local Children’s Aid Societies and other local service providers and community representatives responsible for issues related to domestic violence, including women’s shelters.</li> <li>• Section 15 includes the mandatory charge policy which states that in all domestic violence occurrences an officer is to lay a charge where there are reasonable grounds to do so. Section 17 states that an officer should explain to both the victim and the suspect that it is their duty to lay a charge when there are reasonable grounds to believe that an offence has been committed, and that only a Crown can withdraw the charge. Section</li> </ul>

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20 indicates that procedures should address dual charges, as well as the laying of counter-charges, and highlight the importance of determining the primary offender in order to distinguish assault from defensive self-protection.

- Sections 31 to 33 address bail procedures. In particular, the procedures should provide that in all domestic violence occurrences officers will comply with the police service's procedures relating to bail and violent crime. Where there has been a breach of bail, or there is about to be a breach, officers will comply with the police service's procedures relating to breach of bail. Consistent with local protocols, the procedures should set out the roles and responsibilities for notifying and informing the victim as soon as possible about the release of the accused, time and location of bail hearing, bail conditions and the criminal justice process.
- LE-024 also addresses victims' assistance and safety planning related matters. These are included in sections 34 to 36. In particular, it requires police services to provide, in conjunction with local victims' services, a localized pamphlet on domestic violence that includes information on local resources to assist victims.
- Section 36 states that the procedures should provide that officers who respond to domestic violence occurrences should ensure that issues surrounding the victim's safety are addressed, including directly providing the victim with information on safety planning or providing information to the victim on the availability of safety planning information and assistance within the community. In cases where it is determined that there is a high risk, or repeat victimization, a domestic violence investigator or another member of the police service, should warn the victim about the potential risk to the victim or any children, and offer to meet with the victim to assist in developing or reviewing the victim's safety plan and to identify other measures that may be taken to help safeguard the victim and any children.

#### **Bail and Violent Crime (LE-023)**

- Police services are to establish procedures and processes with respect to bail and violent crime. In particular, section 3(c) indicates that a police service should ensure that the victim be informed of the right to attend the bail hearing (the officer preparing the brief should also consider whether it is necessary for the victim to attend the bail hearing to testify regarding any safety fears the victim may have, and if so, should discuss this with the victim).
- Section 4 deals with post-bail hearing notifications. Post-bail hearing notifications should address, consistent with local protocols, who is responsible for: notifying the victim of the outcome of the bail hearing, including any conditions of release; entering the conditions for release on CPIC, within at least 24 hours or as soon as practicable, if the accused is released on bail; the steps to be followed for the receipt and storage of information on an accused who is released on bail and is required to reside in or report to the police service; and the steps to be taken in the event that an accused fails to report.

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### Protocols

Local protocols can be obtained by contacting the respective municipal police services or the Ontario Provincial Police.

## Crown

### Policies

#### **Ministry of the Attorney General: Crown Policy Manual, Policy on Spouse/Partner Offences**

- Practice memorandum: *Spouse/Partner Offences: Section 810 Peace Bond Applications and Privately Laid Charges*. Highlights: screening, intervention, pre-enquete attendance, scheduling, and protocols with justice partners. Practice memorandum: *Spouse/Partner Offences: Domestic Violence Court Program – Crown Management Responsibilities*. Practice memorandum: *Spouse/Partner Offences: Early Intervention Program in the Domestic Violence Court Program*. Highlights: overviews of the Domestic Violence Court Program, the Early Intervention Program, and the PARs program; criteria for eligibility; points of referral. Practice memorandum: *Spouse/Partner Offences: Information Sharing with Probation and the Partner Assault Response Programs in the Domestic Violence Court Program*.
- Practice memorandum: *Spouse/Partner Offences: Miscellaneous Issues*. Highlights: meetings with victims, withdrawal of charges, recanting witnesses, charge screening and resolution discussions, peace bonds, non-appearing witnesses, dual charges and sentencing submissions.
- Practice memorandum: *Spouse/Partner Offences: Risk Indicators Checklist in Domestic Violence Cases*.
- Practice memorandum: *Spouse/Partner Offences: Evidentiary Issues*. Highlights: enhanced evidence gathering, child witnesses, and expert witnesses.
- Practice memorandum: *Bail*. Highlights with regard to spouse/partner offences: Crown position on bail, breaches of restraining orders, checklist for bail Crown brief, risk assessment/indicators checklists, conditions of release, requests for bail variations.
- Practice memorandum: *Child and Family Services Amendment Act (Child Welfare Reform), 1999*.
- Ministry of the Attorney General: *Policy on Child Abuse, Internet-Based and Other Offences against Children*.
- Practice memorandum: *Child Abuse and Offences Involving Children*. Highlights: judicial interim release, charge screening, disclosure of sensitive material, resolution discussions, preparing child witnesses, sentencing and post-conviction issues and coordination of support and services for child victim/witnesses. Coordination of supports includes the following direction: the Regional Director of Crown Operations, together with local Crown attorneys, police services, and VWAP (where available) should update, as necessary, local and regional protocols and inter-agency procedures for child victim/witnesses, to ensure they adequately and effectively respond to the needs of these children.

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### Child Protection

#### Policies and Protocols

**The Child Protection Standards:** (the Standards) were implemented for all of Ontario's Children's Aid Societies (CASs) in 2007. Under the Standards, all information received by a CAS regarding concerns about a child is considered to be a potential referral. A report that a child may be in need of protection is given an immediate initial assessment by a child protection worker. All referrals are universally screened for the presence of domestic violence.<sup>119</sup>

A referral in which the only allegation is exposure to domestic violence does not in itself meet the definition of a child in need of protection under the *Child and Family Services Act* (CFSA). When receiving a report regarding domestic violence, the primary focus of the child protection worker is on gathering information and assessing how the violence has resulted in, or is raising the risk of abuse or neglect as defined in the CFSA.

**CAS/VAW Collaboration Agreements:** In response to children's deaths that occurred in a domestic violence context, the Ontario government made a commitment to connect the Violence Against Women (VAW) and Children's Aid Society (CAS) sectors through the development of local agreements known as CAS/VAW Collaboration agreements. These agreements, developed in 2003, describe how CAS and VAW agencies will collaborate when the work of the two sectors intersect. Local collaboration committees were created in 44 communities and are co-chaired by a representative from both the CAS and VAW sectors.

The collaboration agreements set out basic principles of intervention for CAS and VAW work. All CASs who are signatory to this agreement acknowledge that any intervention with families must be guided by current knowledge about the dynamics of violence against women and the impact of inequality.

Participating agencies agree to develop community-specific collaborative actions for each of the following points where work between the two sectors intersects:

- CAS has received a referral/report/information that a child may be in need of protection and a worker suspects or learns that woman abuse may be/is occurring in the home;
- A CAS worker is assessing the safety and future risk to the child and the worker suspects or learns that woman abuse may be/is occurring in the home;
- A CAS worker is involved in developing a plan of service for a family in a case involving woman abuse;

<sup>119</sup>For the purposes of the Standards, domestic violence is defined as: Conflict characterized by violent or abusive behaviours, which occurs within the child's home environment. Domestic violence includes but is not limited to partner violence. The violence occurs between the child's parent/primary caregiver and any other adult who resides in or frequents the home. This may include the mother's partner, adult relative, boarder, or anyone else who has a relationship with the family. The frequency and severity (intensity) of violence can range from homicide or a single very serious incident resulting in injuries that require hospitalization, to a pattern of less serious physical violence (e.g., slapping, pushing) and/or a pattern of verbal abuse, threats of harm or criminal harassment.



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- A VAW worker is trying to determine whether a situation constitutes reasonable grounds to suspect that a child may be in need of protection;
- A woman and child are involved with both a VAW agency and CAS;
- A VAW or CAS worker is assisting a woman who is trying to negotiate custody and access agreements in order to increase her safety and that of her child(ren); and
- CAS and VAW workers/sectors are working together to enhance best practice and address other system changes.

**Police Protocols with Children's Aid Societies:** MCSCS developed the Policing Standards Manual, which contains guidelines to assist police services with the development of their own policy/procedures in their implementation of the *Police Services Act*.

The guidelines are advisory in nature. Police services boards, chiefs of police, police associations and municipalities may also consider comparable equivalents when addressing compliance with the Act and its regulations.

With respect to child protection, MCSCS guidelines include:

The Child Abuse and Neglect Guideline (LE-027) includes requirements for the Chief of Police to:

- engage in multi-disciplinary coordination and partnership on the local level between the Chief of Police, local Crown, Children's Aid Societies (CAS), municipalities, school boards and other appropriate service providers, including hospital staff, to develop a local strategy for preventing, and responding to issues and complaints of child abuse and neglect (section 1);
- enter into a child abuse protocol with their local CAS (section 4); and
- establish procedures and processes for undertaking and managing child abuse and neglect investigations (section 5).

An appendix to Guideline LE-027 provides a Framework for the Model Child Abuse Protocol for police services to use with the local CAS.

### Service-Based Responses

**Victim/Witness Assistance Program (V/WAP):** V/WAP is a court-based program delivered by staff of Ontario Victim Services, Ministry of the Attorney General (MAG). Services commence once charges are laid and are provided on a priority basis to the most vulnerable victims and witnesses of violent crime, such as domestic violence, child abuse, sexual assault, homicide and hate crime. Families of traffic fatality victims are also eligible. V/WAP provides information, assistance and support to victims and witnesses of crime to increase their understanding of, and participation in, the criminal court process.

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**Victim Crisis Assistance and Referral Service (VCARS):** The VCARS program is funded by MAG and delivered by non-profit victim services agencies. VCARS provides immediate, on-site service to victims of crime 24 hours a day, seven days a week. With a victim's consent, police will arrange for VCARS staff and/or specially trained volunteers to provide on-site, short-term assistance to victims, and make referrals to community agencies for long-term assistance.

**Victim Quick Response Program (VQRP):** VQRP is funded by MAG and delivered by non-profit victim services agencies. VQRP provides immediate assistance to victims of violent crime. Through this program, eligible victims who have no other financial means are able to access the following services: emergency expenses such as securing the premises to ensure immediate safety, emergency accommodation and meals, transportation costs and dependent care costs; crime scene cleanup requiring specialized services; funeral expenses to assist families of homicide victims; and counselling to provide short-term support or early intervention counselling to help victims of serious crime.

**SupportLink:** SupportLink is funded by MAG and delivered by non-profit victim services agencies. Victims at risk of domestic violence, sexual assault and stalking receive help developing a personal safety plan, information and referral to community services, follow-up contact, and, where appropriate, a cell phone pre-programmed to dial 911.

**Family Court Support Worker Program (FCSWP):** The FCSWP is funded by MAG and delivered by non-profit community agencies that serve victims of domestic violence. Through this program, eligible victims of domestic violence who are involved in a family court process receive information about the family court process, preparation for family court proceedings, referrals to other specialized services and supports in the community, help with safety planning, such as getting to and from court safely, and accompaniment to court proceedings, where appropriate.

**The Victim Support Line (VSL)** is a province-wide, multilingual toll free service of the Ministry of Community Safety and Correctional Services (MCSCS), the Ministry of the Attorney General (MAG), and the Ontario Parole Board (OPB) that provides a range of services to victims of crime. The VSL offers information and referral to support services in the victim's community and access to information about provincially sentenced offenders. Victims can also register for automated notification when an offender's status changes.

In institutions, the MCSCS has implemented an enhanced Offender Telephone Management System to prevent contact with victims.

**VAW Emergency Shelter Services:** VAW emergency shelters provide women and their children experiencing violence with community-based emergency shelter and crisis support services. VAW shelters provide crisis telephone counselling, safety planning, referral services, and information on clients' rights. Agencies support the development of a personal safety plan for

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women and their children, in order to confirm their immediate safety and help them prevent further abuse. VAW shelters are funded by the Ministry of Community and Social Services (MCSS).

**Child Victim/Witness Program:** This program is funded by MAG and delivered by non-profit community organizations. The Child Victim/Witness Program offers support and services to child victims and witnesses during the criminal court process. The program offers a number of services, including: assessing children's needs in court, preparing children for court, communicating with Crown attorneys, defence lawyers and judges, accompanying children to court, support for parents and guardians, help with victim impact statements and other forms, service referrals, and post-court follow-ups.

**Child Witness Program:** The Child Witness Program provides early intervention to child witnesses of woman abuse in order that they may heal from the harmful effects of witnessing violence and thus avoid the later need for more intensive supports. The Child Witness Program is shelter-based and funded by MCSS.

**Partner Assault Response (PAR) Program:** The PAR program is a component of Ontario's Domestic Violence Court program and is funded by MAG. It provides a specialized counselling and educational program to offenders who have assaulted their partners. Offenders are provided with an opportunity to examine their beliefs and attitudes towards domestic abuse, and to learn non-abusive ways of resolving conflict. PAR programs aim to enhance victim safety and hold offenders accountable for their behaviour. While an offender is in the PAR program, staff offer the victim help with safety planning, referrals to community resources, and information about the offender's progress.

**Supervised Access Program:** The service is funded by MAG and delivered by community-based non-profit charitable organizations. The service is available to children and families involved in custody and access disputes either with court orders or written agreements for supervised access. The centres provide a safe, neutral, child-focused setting for visits and exchanges between children and parents or other adults such as a grandparent where there is a concern for the safety of the child and/or the adults. For example where there is a history of domestic violence, mental health or substance use/abuse issues, or a break in parent-child contact.

**Mandatory Information Programs:** Mandatory Information Programs (MIP) are two-hour sessions that are provided by MAG's mediation and information external service-providers. The sessions focus on the impact of relationship breakdown on children and families, legal information, the court process and alternative methods of dispute resolution for families who have experienced separation. The sessions also cover domestic violence issues and community resources to assist in managing those issues. The MIP is a mandatory early step in most contested family law cases, but may also be available to others on request. The sessions are presented by local lawyers and mental health professionals.

## Ontario

**Information and Referral Coordinator (IRC):** The IRC is provided by MAG's mediation and information external service providers. The IRC provides an early assessment of clients' needs which expedites access to legal and non-legal community resources (including Ontario's new Family Court Support Worker program) and identifies high-risk or urgent cases that may require immediate legal advice and judicial intervention.

**VAW Counselling Services:** VAW counselling agencies provide community-based counselling, support and referral services for women and their children who experience violence. Counselling services may include: crisis/support counselling, sexual assault counselling and long-term therapeutic counselling. Agencies support the development of a personal safety plan for women and their children, in order to confirm their immediate safety and help them prevent further abuse. VAW counselling is funded by MCSS.

**Transitional and Housing Support Program (THSP):** VAW agencies help women and their children who have experienced violence find and maintain housing. Services offered by THSP agencies may also include helping women and their children apply for social housing, and connect with counselling and support services. Agencies support the development of a personal safety plan for women and their children, in order to confirm their immediate safety and help them prevent further abuse. The THSP is funded by MCSS.

**Provincial Crisis Line Counselling:** MCSS provides funding to two provincial crisis lines, the Assaulted Women's Helpline and Fem'aide. The Assaulted Women's Help Line provides crisis line services in up to 154 languages. Fem'aide provides crisis line services in French to French-speaking women.

The provincial crisis lines operate twenty-four hours per day and seven days a week. The crisis lines provide immediate assistance to women experiencing violence by helping them manage crisis situations, develop safety plans, inform them of their rights, and provide them with referral to services.

MCSS is providing funding over three years for Talk4Healing, a helpline for Aboriginal women in northern Ontario. Services are focused on northern Ontario due to the difficulties Aboriginal women experience accessing limited services in some remote and isolated communities. The helpline will provide timely and reliable crisis support, information and referral services to Aboriginal women and other members of Aboriginal communities impacted by violence. Through the helpline, telephone counselling will be available to Aboriginal women residing in remote and isolated communities.

**Public Legal Education – "Family Law Education for Women":** The Ontario-wide Family Law Education for Women campaign helps newcomer and other vulnerable women understand their rights and options under family law and how to exercise them. Plain language materials on

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subjects such as divorce, custody and support are available in 14 languages. The materials were developed with the assistance of community agencies. Alternative formats of the booklets are also available including: audio and video, large print and Braille and the booklets have been adapted to specific targeted audiences, including women from Aboriginal, Jewish, Muslim and Christian communities. The project's core materials include a promotional information kit, posters, leaflets and 12 booklets on family law and related legal issues.

The Ontario Women's Directorate is funding the Metropolitan Action Committee on Violence Against Women and Children (METRAC) and Action ontarienne contre la violence faite aux femmes (AOcVF), two provincial violence against women umbrella organizations, to manage and deliver the program.

## Court-Based Responses

### Domestic Violence Court Program

There is a Domestic Violence Court Program ("DVC Program") in every court jurisdiction in Ontario. The DVC Program is comprised of an Early Intervention stream and a coordinated prosecution approach. The DVC Program is based on a collaboration of justice and community partners which allows for a coordinated response to domestic violence. Teams of specialized professionals - police, Crown attorneys, Victim/Witness Assistance Program staff, probation services, Partner Assault Response program staff, and other community agencies –work together to support victims while holding abusers accountable.

The Early Intervention stream of the DVC Program deals with low level offences of domestic violence. It is designed for motivated accused persons interested in seeking help and taking responsibility for their offences. Accused persons who enter the Early Intervention Program must attend a 16 week Partner Assault Response program ("PAR program"). The PAR program is an education/intervention program for offenders who have abused their partners and has an outreach and support component for victims.

The coordinated prosecution approach to domestic violence cases focuses on offender accountability as well as support to victims in the following ways: police gather additional evidence; Crowns with special training in domestic violence present the evidence to the court; Victim/Witness Assistance Program staff provide ongoing support, information, and referrals to meet the needs of domestic violence victims; Probation and the Partner Assault Response Program providers receive information and proper documentation, keep in touch with the victim, and provide appropriate support.

### Integrated Domestic Violence Court

The Ontario Court of Justice (OCJ), in partnership with the Ministry of the Attorney General, has established a pilot Integrated Domestic Violence Court (IDV Court) in Toronto. The IDV Court sits at the 311 Jarvis Street OCJ courthouse for half a day, every other Friday. There have been 31 cases between June 2011 and August 2013.

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The overall goal of the IDV Court is to deliver a holistic and better-informed response to those cases where families are involved with both the criminal law system, as a result of domestic violence, and the family law system. The court is based on a one-family-one-judge concept. Both cases are managed before a single judge, however in the event that the case is not resolved through the case management or pre-trial process the trials are heard separately.

All cases where there is a family case and a criminal domestic violence charge are mandated to the IDV Court by a Practice Direction issued from the Chief Justice of the Ontario Court of Justice. Family cases (custody, access, support, restraining orders – NOT child protection or divorce/property) are taken from both Toronto OCJ sites; criminal cases (domestic violence summary conviction charges) must have originated at the Old City Hall or College Park courts.

For the first two years of the operation of the IDV Court, there was funding for a Community Resource Coordinator (CRC) who found eligible cases through consulting the family and criminal electronic case tracking systems (which are separate systems). The CRC was also responsible for:

- connecting parties to community resources;
- coordinating the transfer of clients to the IDV Court;
- advising the parties of upcoming IDV Court attendances; and
- reporting back to the IDV Court of parties' court-ordered treatment.

### **Child Friendly Courts**

There are several Child Friendly Courtrooms in Ontario. These courtrooms are designed to be more accessible to children. For example the courtroom is smaller as is the dais, so as to be less intimidating for child witnesses. These courtrooms may also be equipped with close circuit video links so that in appropriate cases children can testify remotely. At the Old City Hall in Toronto, the Child Friendly Courtroom is staffed by a specialized team of prosecutors.

## Tools/Processes to Ensure Safety

### **Risk Assessment Tools and Checklists**

The Ministry of Community Safety and Correctional Services (MCSCS) recently released the Domestic Violence Risk Management (DVRM) Report. As described by MCSCS' Officer's Guide, the DVRM is to be completed by an officer whenever there are charges laid in a domestic violence occurrence. Victim participation in completing the DVRM is optimal and strongly encouraged. The Guide further describes the DVRM as follows:

The DVRM serves as an investigative checklist which identifies factors that need to be considered by officers, supervisors and Crowns regarding possible bail opposition in domestic violence occurrence cases. It identifies or allows for the monitoring of follow-up steps regarding the completion of the investigation such as photos of injuries within 24 hours or video-taped statements. It provides Crowns with a quick/easy-to-read overview of the cases that

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supplements information set out in the Show Cause Report/Crown Brief Report. Finally, it incorporates the questions which identify factors used to determine the ODARA (Ontario Domestic Risk Assessment) Score.

The ODARA is a 13-question checklist, based on scientific research, that helps Crown attorneys and police determine whether an accused seeking bail is likely to commit another domestic assault. The tool was piloted in bail courts. The goal of the pilot was to confirm that ODARA would be accepted as evidence by the bail courts. This was not fully achieved.

### Family Mediation Services

Court connected family mediators are required to screen for domestic violence before and during family mediation. The purpose of screening for domestic violence and abuse at the outset of a mediation session is:

1. To determine the capacity of the parties to mediate, i.e. their ability to make decisions through a negotiation process, and the absence of fear of or coercion by the other party;
2. To promote the safety of all participants and the children before, during and after mediation;
3. To determine each party's readiness to mediate; and,
4. To understand the dynamics of power between the couple.

In their "Best Practices in Screening for Domestic Violence and Power Imbalances in Family Mediations" (June 2009), the Ministry of the Attorney General, Court Services Division adopted the Policy on Abuse of the Ontario Association of Family Mediation.

## Coordinating Mechanisms

### Information Sharing Protocols

An information sharing agreement is in place between Partner Assault Response (PAR) program providers and the Victim/Witness Assistance Program (V/WAP), the Crown Attorney's Office (Crown), and the Probation and Parole Service (P&P). The agreement outlines the information that must be shared between V/WAP, Crowns, P&P and PAR providers in cases where the accused is referred to a PAR program. This information is necessary to ensure an individual's compliance with the conditions of a supervision order and the requirements of the PAR program, and to enhance victim safety.

### Inter-Agency Protocols

The Victim/Witness Assistance Program (V/WAP), which assists victims during the criminal court process, and the Family Court Support Worker Program (FCSWP), which assists victims of domestic violence during the family court process, have a protocol in place to help support clients with concurrent criminal and family law cases. The protocol encourages proactive referrals between programs, and provides guidelines for sharing of information and case coordination.



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### Coordinating Committees

**Domestic Violence Community Coordinating Committees (DV3Cs)** are cross-sectoral community-based committees that may include representation from the VAW, justice, health, education, and housing sectors. DV3Cs work to increase collaboration and coordination between local service providers within the violence against women (VAW) sector and encourage greater community involvement from other sectors in efforts to prevent VAW. MCSS supports a total of 48 DV3Cs in Ontario.

**Domestic Violence High Risk Committees** are in place in each of the province's court jurisdictions. These committees provide additional monitoring and proactive management of domestic violence cases identified as high-risk. Membership on these committees varies in accordance with local needs, practices, and available resources. Committees are comprised of justice partners (Crowns, Victim/Witness Assistance Program staff, police and probation) and may involve some community participation.

**Domestic Violence Court Advisory Committees** are a key component of the DVC Program and were established to support the effective operation of the DVC Program. The Committees are comprised of justice and community representatives and are intended to provide a coordinated, effective justice system response to domestic violence cases. The Committees provide a mechanism for information-sharing, process review, and problem-solving. Typically, membership on the Domestic Violence Court Advisory Committee includes:

- Crown;
- Victim/Witness Assistance Program;
- Court Services;
- Police;
- Probation and Parole;
- Partner Assault Response Program agencies;
- Interpreter agencies;
- Sexual Assault/Domestic Violence Treatment Centre; and
- Representative from the Violence Against Women sector.

Representatives of the defence bar, the Children's Aid Society, and shelters may also sit on these committees.

Domestic Violence Court Advisory Committees are not designed to deal with case-specific issues, but rather as a forum for discussion on systemic and policy issues related to the operation of the DVC Program.

### Family Violence Action Plans

**Domestic Violence Action Plan (DVAP)** was launched in 2004. It is a multi-ministry initiative that sets out a collaborative approach to:

- Provide better community supports for victims, including enhanced counselling services



## Ontario

and transitional and housing supports;

- Support training of front-line workers and professionals across sectors;
- Promote public education and prevention to change attitudes and mobilize communities to stop violence before it happens; and
- Improve Ontario's criminal and family justice systems to better protect women and their children and hold abusers accountable for their behaviour.

Since 2009, this work has been informed by the Domestic Violence Advisory Council. The Council was appointed by the Minister Responsible for Women's Issues to provide advice on how to improve the existing system of violence against women services to better meet the diverse needs of abused women and their children.

**Sexual Violence Action Plan (SVAP):** In March 2011, the province launched Changing Attitudes, Changing Lives, Ontario's Sexual Violence Action Plan. The plan includes programs designed to:

- Prevent sexual violence through increased public education, including initiatives that reflect the diversity of communities across the province;
- Expand and improve access to a wide range of services for survivors of sexual violence, including supports on the front lines and in healthcare settings; and
- Strengthen the criminal justice system's response toward sexual violence, including increasing coordination and training for police, Crown counsel and other justice personnel.

The Sexual Violence Action Plan followed province-wide consultations with survivors, service providers, and experts. It is a multi-ministry government initiative.

A Progress Report on the Plan was issued in June 2013, highlighting actions taken to date.

## New Initiatives (Non-Justice)

**Aboriginal Women's Help Line Pilot Project in Northern Ontario:** MCSS launched a three year pilot Aboriginal women's help line for northern Ontario - Talk4Healing – in October 2012. The help line provides crisis support, information and referrals to services and counselling to Aboriginal women living in northern Ontario.

## Key Reports

[Annual Domestic Violence Death Review Committee Report](#) – Office of the Chief Coroner, Province of Ontario.

[Domestic Violence Action Plan for Ontario](#) (2004).

[Transforming our Communities, Report from the Domestic Violence Advisory Council for the Minister Responsible for Women's Issues](#) (2009).

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[Changing Attitudes, Changing Lives, Ontario's Sexual Violence Action Plan](#) (2011).

[Changing Attitudes, Changing Lives, Ontario's Sexual Violence Action Plan, Progress Report](#) (2013).

[Domestic Violence Action Plan Update](#) (2007).

<b>Prince Edward Island</b>	
<b>Legislative Responses</b>	
<b>Family/Domestic Violence Legislation</b> <a href="#"><i>Victims of Family Violence Act</i></a> Remedies available: sub-section 4(3).	
<b>Family Law Provisions Related to Family Violence</b> <a href="#"><i>Family Law Act</i></a> Restraining orders: sub-section 45(1).	
<b>Child Protection Provisions Related to Family Violence</b> <a href="#"><i>Child Protection Act</i></a> Defines child in need of protection to include “the child has suffered physical or emotional harm caused by being exposed to domestic violence by or towards a parent”; or is at substantial risk of the above, sub-sections 9 (m) and (n).	
<b>Police</b>	
<b>Policies</b> <ul style="list-style-type: none"> <li>• Spousal Abuse Police Charging Policy.</li> <li>• Show Cause Information Form.</li> </ul>	
<b>Protocols</b> <ul style="list-style-type: none"> <li>• Police Response to Domestic Disputes Woman Abuse Protocol.</li> <li>• Police Referral to Director of Child Protection referral form and process.</li> <li>• Memorandum of understanding between Police agencies (RCMP and Municipal) and the Province regarding Police Referral to Victim Services.</li> <li>• Ministers Directive Regarding Assistance to Victims of Crime.</li> <li>• Provincial Child Sexual Abuse Protocol.</li> <li>• Management of High Risk Offenders Policy and Procedures, and Committee.</li> </ul>	
<b>Crown</b>	
<b>Policies</b> <a href="#"><u>Guide Book of Policies and Procedures for Conduct of Criminal Prosecutions in Prince Edward Island</u></a> Section 14 concerns spousal violence prosecutions.	
<b>Child Protection</b>	
<b>Protocols</b> Provincial Child Sexual Abuse Protocol and joint investigation of child abuse cases (police and child protection).	

Prince Edward Island
Service-Based Responses
<p><b>Victim Services</b></p> <p>Victim services is a program of the provincial government (system-based model) that provides assistance to all victims of crime throughout their involvement with the criminal justice system.</p> <p><b>Shelters</b></p> <ul style="list-style-type: none"> <li>• Anderson House is an emergency shelter for women and children in family violence situations.</li> <li>• Chief Mary Bernard Women's Shelter for victims of family violence and homelessness.</li> <li>• Bedford MacDonald House – emergency shelter for homeless men.</li> </ul> <p><b>Programs for Children Exposed to Family Violence</b></p> <p>Catholic Family Services Bureau offers play therapy and programs for children exposed to family violence.</p> <p><b>Abusive Partner Programs</b></p> <p>The Community and Correctional Services Division delivers the Turning Point Program, a group counselling program for men who are abusive to a partner.</p> <p><b>Supervised Access</b></p> <p>There are no formal supervised access programs.</p> <p><b>Parent &amp; Child Education/Information</b></p> <p>Information for students at various age levels re: good touch/bad touch, healthy relationships, etc.</p>
Court-Based Responses
<p>Prince Edward Island does not have a domestic violence court or integrated domestic violence court.</p> <p><b>Linking between Civil and Criminal Justice Systems in Domestic Violence Cases</b></p> <p>There is a committee in place working on the feasibility of a technological solution to sharing information between the criminal and civil justice systems in cases of family violence involving children.</p>
Tools/Processes to Ensure Safety
<p><b>Structured Risk Assessment Tools</b></p> <p>The use of risk assessment tools is informal – Prince Edward Island has not formally adopted a specific tool.</p>

## Prince Edward Island

### Checklists

- The police (RCMP and Municipal) have implemented a Domestic Violence Police Investigation Checklist.
- A Court information package is used to provide the courts with a standard package of information in family violence cases.

### Screening for Family Violence

Probation officers use the Level of Service Inventory – Revised (LSI-R), and have been trained in STICS (Strategic Training Initiative in Community Supervision). Probation Services has also implemented an actuarial tool for use in family violence cases, to assist in making decisions regarding victim/offender contact.

## Coordinating Mechanisms

### Information Sharing Protocols

- Memorandum of understanding between police agencies and the province regarding referrals to Victim Services.
- Police referral to Child Protection.

### Inter-Agency Protocols

- Child Sexual Abuse Protocol.
- Woman Abuse Protocols.
- Protocols between Custody Centre and Probation/Victim Services whereby all inmate visiting and phone lists are reviewed and approved by Probation and Victim Services to help identify any concerns re safety, no contact provisions, etc.

### Coordinating Committees

- Premiers Action Committee on Family Violence Prevention.
- Victims of Family Violence Act Steering Committee.
- Provincial Child Sexual Abuse Advisory Committee.
- Provincial Human Trafficking Committee.
- High Risk Offender Committee.
- Linking Criminal and Family Justice Systems Working Group.

### Family Violence Action Plans

[Premier Action Committee on Family Violence Prevention](#) has a five year mandate with priorities identified.

## New Initiatives (Non-Justice)

Circles of Safety and Support for women experiencing family violence (developed by Justice Options for Women).

<b>Prince Edward Island</b>
<b>Data Collection</b>
Most recent statistics on family violence can be found at <a href="http://www.stopfamilyviolence.pe.ca">www.stopfamilyviolence.pe.ca</a>

Quebec
Legislative Responses
<p><a href="#"><u>Act Respecting Assistance for Victims of Crime</u></a> (chapter A-13.2)</p> <p><a href="#"><u>Youth Protection Act</u></a> (chapter P-34.1)</p> <p><a href="#"><u>An Act to amend various legislative provisions as regards the disclosure of confidential information to protect individuals</u></a> (chapter 78)</p> <p>Other legislation</p> <p><a href="#"><u>Crime Victims Compensation Act</u></a> (chapter I-6)</p> <p><a href="#"><u>An Act respecting the Québec correctional system</u></a> (chapter S-40.1)</p> <p><a href="#"><u>Civil Code of Québec</u></a></p> <p><a href="#"><u>Québec Code of Civil Procedure</u></a></p>
Police
<p><b>Policies</b></p> <p>The <i>Guide de pratiques policières</i> [TRANSLATION: guide to police practices] published by the Ministère de la Sécurité publique [TRANSLATION: Ministry of Public Safety] provides that, where there is a family violence intervention, police officers must provide victims with information on existing resources as well as take measures to facilitate access to these services for victims and children. In addition, in cases of spousal violence, police officers must also inform the suspect of existing resources and encourage him or her to use them. The police officer is also to inform the victim of a suspect's release conditions, if applicable.</p> <p><b>Protocols</b></p> <p>The establishment of protocols is usually the responsibility of each police force. Under the guide to police practices, each police force must ensure to use a memorandum of understanding on intervention in spousal violence.</p> <p>The ministère de la Sécurité publique [TRANSLATION: Ministry of Public Safety] is, however, signatory to the <i>Entente multisectorielle relative aux enfants victimes d'abus sexuels, de mauvais traitements physiques ou d'une absence de soins menaçant leur santé physique</i> [multisectoral agreement on child victims of sexual abuse, physical abuse or neglect that threatens their physical health] jointly with the ministère de l'Éducation, du Loisirs et du Sport [TRANSLATION: Ministry of Education, Leisure and Sport], ministère de la Justice [TRANSLATION: Ministry of Justice], ministère de la Famille et des Aînés [TRANSLATION: Ministry of Family and Seniors] and ministère de la Santé et des Services sociaux (MSSS) [TRANSLATION: Ministry of Health and Social Services]. The purpose of the socio-judicial intervention procedure established in this agreement is to ensure an adequate ongoing response that is in line with the</p>

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child's need for assistance and protection.

There are also protocols for police referrals to assistance centres for victims of crime (known as CAVAC). However, even without protocols, police forces will inform victims of the existence of services offered to victims, like the CAVACs and encourage them to contact these services.

## Child Protection

### Protocols

The *Entente multisectorielle relative aux enfants victimes d'abus sexuels, de mauvais traitements physiques ou d'une absence de soins menaçant leur santé physique* [TRANSLATION: multisectoral agreement on child victims of sexual abuse, physical abuse or neglect that threatens their physical health] is an agreement between departments, institutions and relevant bodies to take concerted action for child victims of abuse when there are reasonable grounds to believe that the security or development of these children has been compromised and a crime had been committed against them.

Situations covered by the multisectoral agreement are described in paragraphs 38(d), (e) and sub-paragraph (b)(1)(i) of the *Youth Protection Act*. They relate to, in particular,

- child victims of sexual abuse committed by their parents or by adult or minor persons with or without a relationship of authority with them;
- child victims of physical abuse by their parents or adult persons with or without a relationship of authority with them; and
- children whose physical health is threatened by the lack of care on the part of their parents or other adults who are in a relationship of authority with them.

Special attention must be paid to children living in certain particular environments where these situations may arise, namely, children living in families with conjugal violence or in sects.

The objectives of the multisectoral agreement are as follows:

- to develop a framework agreement to which the various partners adhere;
- to specify the intervention procedure, roles and responsibilities of each partner, taking into account various types of situations;
- to specify the communication procedures permissible under the legislation;
- to agree, depending on circumstances, on appropriate procedures for referral to bodies and institutions;
- to promote the transfer of information by clarifying confidentiality requirements;
- to reduce intervention delays; and
- to determine the conditions for applying the framework agreement.



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### Service-Based Responses

#### Victim Services

##### Assistance centres for victims of crime (CAVAC)

CAVACs provide front-line services that are free of charge and confidential to the entire population. They provide post-trauma and psychosocial intervention services consisting of assessing the needs and resources available to victims of crime. Following the assessment, CAVACs intervene with the victim of crime to reduce the impact of the victimization and to allow the person to continue their healing process. CAVAC staff provide information on the rights of victims of crime and the remedies available to them, the main stages of the judicial process, the victims of crime compensation program, the victim impact statement and any financial assistance measures to which victims may be entitled. CAVAC staff also provide technical assistance to victims in filling out forms and in enabling them to comply with all the procedures associated with their situation. CAVAC staff accompany victims in their dealings with medical and community resources and throughout the judicial process as the case proceeds. Moreover, CAVAC staff refer victims to specialized services such as legal, medical, social and community resources, which are able to help them resolve problems that they must confront.

#### Toll-free Telephone Lines

- **S.O.S. violence conjugale telephone line**

The mandate of this telephone line is to provide Quebec women who are victims of spousal violence with intake, assessment and referral to appropriate services, 24 hours a day, 7 days a week.

- **Sexual assault referral telephone line**

This free, bilingual and confidential referral telephone line service available 24 hours a day, 7 days a week is intended to refer victims of sexual assault, their family and stakeholders to the appropriate services.

#### Information Service

The [Act Respecting the Québec Correctional System](#) provides that victims can receive specific information concerning their incarcerated attacker. In addition, they can make written submissions to relate how the crime affected them and the consequences they have suffered since. These submissions would be taken into account when the offender is assessed. All victims have the right to obtain the same information. Nonetheless, victims of spousal violence and of sexual assault will receive this information without having to request it (it is, however, necessary to have their correct contact information in order to reach them). All other victims can receive this information, but must request it in writing. Responsibility: Services correctionnels du Québec [TRANSLATION: Correctional Services of Québec] (administers prison sentences of two years less a day) and the Commission québécoise des libérations conditionnelles [TRANSLATION: Québec Parole Board].

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### Shelters

Services provided at shelters are accessible to all women and their children who find themselves in situations of spousal violence. Some shelters are accessible to women with functional limitations and there is also a network of shelters for Aboriginal women in Quebec.

The services provided at shelters are essentially emergency sheltering available 24 hours a day, 7 days a week and intervention for women who are victims and children who are exposed to spousal violence.

### Second Stage Shelters

Second stage shelters are community organizations funded mainly by the Programme de soutien aux organismes communautaires (PSOC) [TRANSLATION: community organization support program], under MSSS's responsibility and by the Société d'habitation du Québec (SHQ) [TRANSLATION: Québec Housing Corporation], in particular, through its Accès-logis program.

The services provided by second stage shelters are accessible to women who are victims of spousal violence and their children going through a transition time after the breakdown of the relationship with the violent partner. Second stage shelters offer women who are victims of spousal violence affordable and accessible housing ensuring the safety of the residents and their children.

The following services are provided:

- Individual intervention with women and children;
- Group intervention;
- Psycho-socio-judicial orientation and accompaniment;
- Support in various endeavours (immigration, job search, etc);
- Prevention, awareness training and education;
- Activities and outings to break down isolation and develop a support network; and
- Post-shelter follow-up with former residents.

### Programs for Children Exposed to Family Violence

Programs for children exposed to spousal violence are offered essentially by shelters for women victims of spousal violence but also by programs run by Centres de santé et de services sociaux [TRANSLATION: Health and Social Service Centres] in some areas of Quebec.

### Abusive Partner Programs

- Intervention for men who behave violently is also provided by community organizations found throughout Quebec. These organizations are also funded mainly by PSOC under the responsibility of MSSS.
- The services offered are accessible to all men who behave violently and who wish to begin the process of changing this.
- The following services are provided:

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- Intake or receipt of a request for help;
- Assessment of the man who is asking for help;
- Treatment or therapy provided (individual and group intervention); and
- Assessment and follow-up at the end of the program.

### Supervised Access

- Supervised Access Services are provided in order to allow children and their loved ones to have a safe and neutral place to allow the child access to a parent with whom they no longer live in order to maintain a relationship with them.
- These services are used primarily following a Superior Court order when the exercise of access rights is interrupted, difficult or a source of too much conflict following a separation or divorce or on the order of the Court of Quebec's Youth Division under the *Youth Protection Act*, when a child is removed from the family.
- Community organizations under the responsibility of the ministère de la Famille et des Aînés [TRANSLATION: Ministry of Family and Seniors] mainly provide this service through service agreements with the Centres de Santé et de Services sociaux [TRANSLATION: Health and Social Service Centres].

### Education and Information for Parents

The session on parenting after a family breakdown better equips parents to deal with the breakdown and to arrange the terms of separation, whether in family mediation or before the courts. Facilitated by two mediators, one from the legal field and the other from the psychosocial field, the session takes an in-depth look at the consequences of the parents' break-up on the family, namely, the psychological shock caused by the separation, the children's needs and reactions, communication with the other parent, as well as the family mediation process and legal aspects. To ensure the safety of the participants, ex-spouses are not registered for the same session, unless requested by them. They may also be accompanied by a person of their choice.

### Specialized Services for Victims of sexual assault

The services available through the health and social services network for victims of sexual assault are mainly provided by designated centres, community organizations and the Centres de santé et de services sociaux (CSSS) [TRANSLATION: Health and Social Services Centres].

### Designated Centres

A designated centre is a health and social services facility, usually a hospital centre, offering medical services and designated by the Agence de la santé et des services sociaux [TRANSLATION: Health and Social Services Agency] (Agency) to ensure medical-social and forensic intervention to victims of sexual assault (children, adolescents, women and men).

These services are provided by a team of social workers, nurses and physicians. The designated centres are accessible 24 hours a day, 7 days a week and accept victims within a minimal wait

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time. There is one in each region of Quebec.

### **Centres d'aide et de lutte contre les agressions à caractère sexuel [translation: Assistance centres for victims of sexual assault] (CALACS) and other community organizations**

There are more than 40 community organizations in Quebec offering services to victims of sexual assault. The majority of them are CALACS members of the Regroupement des CALACS. They provide direct support to women and girls aged 14 and over who are victims of sexual assault. The main services provided are the following: reception; references; one-on-one counselling and support groups; urgent appointments and accompaniment.

Another part of those 40 organizations provide essentially the same services offered also or more specifically to other clients such as children, adolescents and men.

### **Centres de santé et de services sociaux (CSSS) [TRANSLATION: Health and Social Services Centres]**

The CSSS offers a range of general health services and social services to the public and certain specialized services. They are also responsible for taking care of, accompanying and supporting vulnerable persons; providing intake, assessment and referrals to clients and their families to required services and promoting health and well-being.

When the CSSS provides the services of a designated centre or those of a hospital centre, the centres are available in the event of an emergency. There are 94 CSSS in Quebec.

### **Other Services**

The ministère de l'Emploi et de la Solidarité sociale (MESS) [TRANSLATION: Ministry of Employment and Social Solidarity] financially supports the emergency financial assistance recipients who take refuge in shelters for women victims of spousal violence, by providing them with benefits for temporary employment during three consecutive months and a special benefit of \$100 per month. In addition, MESS pays recipients a special benefit for moving expenses if the move took place because of spousal violence.

MESS also provides emergency financial assistance to victims of spousal violence without having them assert their rights to support, contrary to the usual procedure. However, the department reserves the right to commence a proceeding of its own accord against the violent spouse. In addition, the department provides these benefits to the victims of spousal violence without having them repay overpayments if the victim can prove that she was unable to express her actual situation because of her spouse's violence against her or towards a dependent child.

## Court-Based Responses

### **Linking between Civil and Criminal Justice Systems in Domestic Violence Cases**

One of the objectives of the 2012-2017 government action plan on domestic violence is to promote consistency and complementarity of interventions, particularly in the judicial system.

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Thus, certain measures are aimed at examining professional practices and information sharing mechanisms that would promote, in youth protection and family cases, the taking into account of various orders and decisions rendered by the courts when they have an impact on the cases.

### Tools/Processes to Ensure Safety

The Minister of Justice tabled a bill in the National Assembly that introduced in the Civil Code of Québec article 1974.1, which, since April 1, 2006, allows for the termination of a residential lease if the safety of the victim or of his/her child is threatened, because of the violent behaviour of a spouse or former spouse or because of a sexual aggression.

The *Act to amend various legislative provisions as regards the disclosure of confidential information to protect individuals* introduces, particularly into legislation pertaining to professional orders and legislation respecting the protection of personal information, provisions to allow the communication of confidential information without the consent of the person concerned in situations where there is reasonable cause to believe that there is an imminent danger of death or serious bodily injury to a person or group of identifiable persons.

#### **Ministère de la Sécurité Publique:**

- Correctional services: any person handed over to Services correctionnels du Québec [TRANSLATION: Correctional Services of Québec] is assessed.
- Tools: LSCMI.
- Tools for sex offenders: Static-99R, Stable-2007.
- Police services: the guide to police practices produced by the ministère de la Sécurité publique [TRANSLATION: Ministry of Public Security] sets out that, during an intervention regarding family violence, police officers must use the checklist found in its appendix to question the victim in order to better assess the risks faced by him or her and his or her loved ones.

### Coordinating Mechanisms

The ministère de la Justice [TRANSLATION: Ministry of Justice] and the ministère de la Condition féminine [TRANSLATION: Ministry on the Status of Women] are both responsible for coordinating government actions on spousal, family and sexual violence. As a result, they co-chair deputy ministers' committees and the comité interministériel de coordination en matière de violence conjugale, familiale et sexuelle [TRANSLATION: Interdepartmental Coordinating Committee on Spousal, Family and Sexual Violence], whose primary mandate is to monitor the implementation of government policy on spousal violence and government approaches to sexual abuse and related action plans. Ten departments are signatories.

As such, the ministère de la Santé et des Services sociaux (MSSS) [TRANSLATION: Department of Health and Social Services] contributes to those efforts. For its network, the MSSS has a direct link to responders from the Agences de santé et de services sociaux (ASSS) [TRANSLATION: Health and Social Services Agencies], which play a multi-sectoral coordinating role and a major role in

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the organization of sexual and spousal violence services. Considering the responsibilities entrusted to the ASSS and stated both in the policy and approaches, there is an internal support and monitoring mechanism for the network to support this action and focus the efforts of partners in the network towards the target objectives. This mechanism is the *Table des répondantes régionales des dossiers violence conjugale et agression sexuelle* [TRANSLATION: roundtable of regional responders to spousal violence and sexual abuse cases]. The roundtable gathers twice a year and its mandate is to support the implementation of government approaches to sexual abuse, the policy on spousal violence and related actions plans, in accordance with the role of the ASSS in organizing services and the mandate of the roundtable of those responsible for spousal violence and sexual abuse cases.

Multi-sectoral cooperating roundtables on spousal violence and sexual abuse, under the responsibility of the ASSS, exist in all regions of Quebec. The role of those roundtables is to gather the various stakeholders that intervene in spousal violence matters (representatives from the Ministry of Justice and Ministry of Public Security, community organizations, etc.) with the aim of ensuring collaborative interventions and, as a result, the safety of victims.

Given that the multi-sectoral roundtables are under regional responsibility, protocols may vary from one region to another.

### Coordinating Committees

**Comité interministériel de coordination en matière de violence conjugale, familiale et sexuelle** [TRANSLATION: Interdepartmental coordinating committee on conjugal, family and sexual violence]

The mandate of the committee involves coordinating and monitoring the implementation of the *Politique d'intervention en matière de violence conjugale: prévenir, dépister, contrer* [TRANSLATION: Intervention policy on spousal violence: prevent, detect, and counter spousal violence] and governmental policy on sexual abuse and related action plans.

The coordination exercised by the committee is aimed at ensuring consistency, avoiding duplication and ensuring an adequate response to client needs. It also serves to continuously assess joint actions. It is achieved by respecting the autonomy of the parties to the committee, their imperatives and the overall rhythm of organizations. The coordination must also ensure that the parties' actions do not interfere with one another.

**Comité interministériel du Plan d'action gouvernemental pour contrer la maltraitance envers les personnes âgées 2010-2015** [TRANSLATION: Interdepartmental committee on the 2010-2015 Governmental Action Plan to Counter Elder Abuse (Governmental Action Plan)]

Each department or agency (DA) member of the interdepartmental committee on the 2010-2015 Governmental Action Plan to Counter Elder Abuse is responsible for the Governmental Action Plan measures that it is assigned and consideration of the phenomenon

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of abuse in its sector's policies and actions plans. This committee periodically produces status reports on the implementation of government commitments contained in the Governmental Action Plan.

### **Comité interministériel sur les services de supervision des droits d'accès [translation: Interdepartmental committee on supervised access services]**

Makes an assessment of current and future needs for supervised access services with a view to establishing the costs, required financing, operations and the need for regulations in anticipation of the development of a provincial program. On this point, models established elsewhere will be studied. The committee will also recommend possible solutions.

In the course of its work, the committee undertook several actions, namely:

- development of a guide on organizing services for supervised access;
- development of a training plan for supervised access stakeholders;
- development of a code of ethics for organizations that offer the service; and
- availability of an information pamphlet on supervised access through the centres de santé et de services sociaux [TRANSLATION: Health and Social Service Centres].

Several other actions are being developed, namely:

- evaluation of supervised access resources in view of creating a snapshot;
- development of a training guide and its distribution;
- development of an incident register and a complaints register; and
- production of a guide for the agencies to obtain character evidence.

### **Family Violence Action Plans**

The fight against spousal violence is one of the Government of Quebec's priorities. In fact, the Government adopted in 1995 its intervention policy on spousal violence: *Prevent, detect, and counter spousal violence* (hereafter, the Policy) and an initial related action plan. The policy lays out the guiding principles for government action on spousal violence and is developed around four priority areas:

- prevention and promotion for a medium and long-term social vision of the problem of spousal violence;
- detection of situations of spousal violence in order to intervene with respect to the underlying problem rather than the symptoms;
- implementation of specific measures for First Nations and Inuit peoples, and adaptation of intervention to the needs of certain clientele: elderly women, women with disabilities, women from cultural communities, abused men and lesbians and gay men; and
- intervention in psychosocial, policing, judicial and correctional fields.

The policy also determines the essential success factors for interventions, that is, coordination, cooperation, training, research and evaluation.

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To update this policy, on December 6, 2012, the government publically released the Action Plan 2012-2017 on Domestic Violence. This action plan contains 135 commitments in two parts: the first stage comprises of 100 measures covering the entire population and the second is specific to Aboriginal people and contains 35 measures explicitly addressed to this population. All commitments aimed at achieving specific objectives and revolve around the pillars of the policy. It also includes measures to ensure the success of actions and implement and monitor them.

### **Action Plan on Sexual Abuse**

Sexual assault is an extremely serious problem as it jeopardizes the life and safety of many people and negatively impacts their development, their health and their well-being. For this reason the Quebec government deemed it important to avail itself of clear inter-sectoral approaches to address this problem in an integrated and comprehensive manner.

Thus, on March 1, 2001, the government publically released the *Orientations gouvernementales en matière d'agression sexuelle* [TRANSLATION: government guiding principles on sexual abuse (*Orientations*)] as well as the first action plan in this regard (2001-2006). The main objective of these approaches is to recognize the socially unacceptable and criminal nature of this form of assault against the person. They also aim at adequately meeting the needs of victims by ensuring their safety and by providing more accessible and better coordinated assistance and protection services in all regions of Quebec. Moreover, they seek to facilitate better supervision of sex offenders to reduce the risks of recidivism.

With a view to updating the *Orientations*, on April 17, 2008, the government unveiled its 2008-2013 Government Action Plan on Sexual Abuse, which combined the one hundred commitments of the ten departments concerned with the problem of sexual violence.

### **2010-2015 Governmental Action Plan to Counter Elder Abuse, Ministère de la Famille et des aînés (MFA) [translation: Ministry of Family and Seniors]**

The Governmental Action Plan includes 39 actions from twelve government DA concerned with countering this form of abuse.

The objective of the present action plan is to promote elder well-being and prevent the commission of various forms of violence, abuse, exploitation, negligence and mistreatment against elders.

## Key Reports

*Rapport sur la mise en œuvre des engagements gouvernementaux 2001-2006 en matière d'agression sexuelle, Québec, 2007.*



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*Bilan de mise en œuvre du plan d'action gouvernemental 2004-2009 en matière de violence conjugale*, Quebec, 2011.

*Services d'aide en matière de violence conjugale : état de situation et besoins prioritaires* by Maryse Rinfret-Raynor, Normand Brodeur, Élisabeth Lessieux and Mathilde Turcotte of the Centre de recherche interdisciplinaire sur la violence familiale et la violence faite aux femmes, Ministère de la Santé et des services sociaux du Québec, Quebec, 2010.

### Data Collection

- Since the coming into force of the government action plan 2004-2009 on spousal violence, the ministère de la Sécurité publique du Québec (MSP) [TRANSLATION: Québec Ministry of Public Safety] continues to publish its annual statistical data on offences committed in a domestic context. These MSP data come from the uniform crime survey program, which is used by police forces to collate information on criminal events.
- Furthermore, the ministère de la Justice [TRANSLATION: Ministry of Justice] and the ministère de la Sécurité publique du Québec [TRANSLATION: Quebec Ministry of Public Security] have agreed on a coding system for spousal violence files. These files bear a locator code called "statistical code A". Criminal and penal prosecutors must write the code on the information. When the file is opened electronically, the staff at the Registry for the Criminal Division get the code and write it visibly on the file cover. Then, Code A appears on several judicial forms, including the probation order, conditional sentence order and warrant of committal. It makes it possible to retrieve files in which a crime was committed in the context of spousal violence. Although this retrieval system is basic, it allows various workers, including those from correctional services, to quickly retrieve spousal violence files.

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### Legislative Responses

#### Family/Domestic Violence Legislation

[The Victims of Domestic Violence Act](#) - Persons who live together, or have lived together in a family or intimate relationship, or who have children together, are eligible to apply for an order under this Act. This includes spouses, common law spouses, same sex partners, children, parents, siblings and disabled persons. In this Act, domestic violence means:

- any intentional or reckless act or omission that causes bodily harm or
- damage to property;
- any act or threatened act that causes a reasonable fear of bodily harm or damage to property;
- forced confinement; or
- sexual abuse.

Under this Act, the following orders and warrant can be issued:

- i) Emergency Intervention Orders are short-term orders granted by a Justice of the Peace that can be obtained 24 hours a day for use in emergency situations. These orders can, for example, give the victim exclusive occupation of the residence; prevent the suspected abuser from contacting the victim or other family members; direct a police officer to remove the suspected abuser from the home; direct a police officer to assist the victim or suspected abuser to supervise the removal of personal belongings, etc.
- ii) Victim's Assistance Orders are granted by the Court of Queen's Bench and are usually for non-emergency situations. These orders contain conditions similar to those for an Emergency Intervention Order, but are for a longer period of time. An order may, for example, direct the suspected abuser to pay for such things as temporary accommodation or legal expenses; give the victim temporary possession of items such as a vehicle or identification documents; prevent the suspected abuser from contacting the victim, family members, etc.
- iii) Warrants of Entry can be requested by police officers when there is concern that a person who cannot act on his/her own is being subjected to domestic violence.

[The Victims of Crime Act, 1995](#) forms the legislative basis for the Victims Services Program. The Act provides for the collection of a surcharge on provincial offences and creates a dedicated fund to support programs and services for victims. Revenue from the provincial and federal surcharge collection is referred to as the "Victims Fund" and is the sole source of income for the Victims Services Program, including compensation for victims of crime

In 2011 the Saskatchewan legislature passed *The Victims of Crime Amendment Act, 2011*, which will require police to provide to designated persons information about a victim that is prescribed in the regulations. The designated person shall use the victim's information to contact the victim for the purpose of providing or facilitating the delivery of victims' services.

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The Act has not yet been proclaimed as regulations must be developed in order to implement the new provisions.

[The Missing Persons and Presumption of Death Act](#) came into force on September 29, 2009 in response to recommendations of the Provincial Partnership Committee on Missing Persons. Under this Act a family member, other interested person, or the Public Guardian and Trustee may apply to the Court of Queen's Bench for an order declaring a person as missing and for appointment of a property guardian. The persons authorized to apply for the order declaring a person to be missing may also apply for an order declaring that the missing person is presumed to be dead. The Court may make a declaration of presumption of death if it is satisfied that: the person has been absent and not been heard from, or by, since a day named in the application; there is no reason to believe the person is living; and reasonable grounds exist to suppose he or she is dead.

#### Child Protection Provisions Related to Family Violence

Under [The Child and Family Services Act, 2006](#) every person who has reasonable grounds to believe that a child is in need of protection shall report the information to an officer (child protection worker) or peace officer (police) (subsection 12(1)). A child in need of protection as a result of an action or omission of a child's parent includes a child that has suffered or is likely to suffer physical harm or a child exposed to domestic violence or severe domestic disharmony (subsections 11(a)(i) and (vi)). The duty to report exists notwithstanding any claim of confidentiality or privilege other than solicitor-client privilege or Crown privilege.

### Police

#### Policies

- Regina Police Service Domestic Violence Policy
  - Domestic Violence (DV) investigation shall stress that DV is criminal conduct.
  - DV calls shall receive the same response as any other life threatening call.
  - The responsibility for enforcement action does not lie with the victim.
  - Where reasonable grounds exist to believe that a crime has occurred, and suspect is present, an arrest SHALL be made.
  - The safety of DV victims is the primary concern of investigators.
  - All DV complaints are reviewed by the DV Coordinator.
  - The DV Coordinator shares information with Victim Services (non-governmental organisation), Social Services, and Probation Services.
- RCMP Operational manual – The manual contains information pertaining to cases involving violence in relationships, including references to Victim Assistance, laying charges, the provincial Child Abuse Protocol (discussed below), parental-child abduction, peace bonds/restraining orders, etc.

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### Protocols

- DV Memorandum of Understanding (MOU): Regina Police Service-Family Services Regina
  - To provide early intervention services to victims of DV.
  - To work cooperatively with police, victim services, crowns, corrections, probation, and parole.
  - To maintain accurate data collection.
  - To share responsibility for providing information, support, and referral services to victims of DV.
- Information Sharing MOU: Correctional Service of Canada, Ministry of Justice, former Ministry of Corrections, Public Safety and Policing, RCMP and Saskatchewan Municipal Police.
- To establish a formal mechanism for the exchange of personal information between the participants in order to allow the participants to better and more effectively carry out their respective mandates.

### Child Abuse Investigations

- Regina Children's Justice Centre
  - An integrated, multi-disciplinary approach to investigating child abuse. Partnerships include Ministry of Justice, Social Services, Regina Health District, Education, and the Regina Police Service.
  - Police and child protection workers jointly investigate reports of child abuse, in partnership with experienced and dedicated doctors and prosecutors.
- Provincial Child Abuse Protocol 2006
  - Endorsed by six government ministries, seven police services, the RCMP, and the Saskatchewan Police Commission.
  - Promotes a coordinated and integrated approach to child abuse investigations.
- Information Sharing Protocol: Regina Police Service-Ministry of Social Services
  - Provides for the sharing of information at the Regina Children's Justice Centre.

## Crown

### Policies

#### Domestic Violence (Partner Abuse) Policy

Public Prosecutions has a policy on Domestic Violence (Partner Abuse). The highlights of the policy are as follows:

- Domestic violence is not a private family matter and should be prosecuted as vigorously as other serious criminal matters providing it meets the prosecutorial standard.
- At all stages of prosecution, including bail hearings, the safety of complainants and their families is a paramount factor for prosecutors to consider in the exercise of discretion.
- Victims must be kept informed as the case moves through the judicial process. This is

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particularly important when the accused person is released on bail so that steps can be taken to ensure the victim's safety.

- Generally speaking, domestic violence cases cannot be referred to Alternative Measures programs not operating within the Domestic Violence Court Programs.
- As soon as the case is identified as involving Domestic Violence, Victim Services should be advised.
- Bail – A warrant should be sought whenever it is necessary to protect the complainant by seeking a detention order or conditions of release.
- Prosecutors should be assigned to cases as soon as possible once the matter is set down for trial. Timely resolution of these types of charges is important as the longer it takes to get to trial, the less likely the complainant will be willing to testify.
- Complainants should be advised that they did not lay the charge and the responsibility for prosecution of the case rests with the Crown prosecutor. Removing the ability to withdraw charges from the complainant may provide some protection from pressure by the accused.

### Protocols

#### Referrals to Victim Services

- The purpose of the protocol is to ensure appropriate and timely responses to victim and witness needs.
- Referrals must be made to the Victim/Witness Service Coordinator responsible for the Prosecution Unit for the area in which the court proceeding originates.
- The protocol outlines the relevant information that is to be provided to the Victim/Witness Coordinator, which includes the witness' contact information, the Information(s) involving the witness, next court date, etc.
- The protocol also addresses requests for additional information by Victim/Witness Services – factors to consider when deciding whether or not to release and information that will typically not be released.

### Child Protection

- The Structured Decision Making System (SDM) for Child Protective Services was implemented in Saskatchewan in 2011. SDM is a series of structured assessments and protocols that focus on the critical decision points during the delivery of child protection services. SDM provides assessment tools that assess the immediate safety and the likelihood of future maltreatment of a child. Definitions of maltreatment align with *The Child and Family Services Act*, Section 11 which defines a child in need of protection. These definitions include children who are exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm.
- Joint investigative units (law enforcement and child protection officers) provide an integrated approach to child abuse investigations.
- Protocols were developed for participation and involvement in the operational planning of local Domestic Violence Courts.

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### Service-Based Responses

#### Victim Services

- **Aboriginal Family Violence Programs:** the Ministry of Justice and Attorney General supports a number of community-based programs that help Aboriginal families living in urban areas deal with abuse and violence.
- **Police-based Victim Services:** the Ministry of Justice and Attorney General provides funding for 18 Police-based Victim Services Programs in Saskatchewan. These programs work closely with police, and assist victims in the immediate aftermath of a crime or tragedy and throughout the criminal justice process. Services offered to meet the needs of victims include crisis intervention, information, support, and referrals to other specialized programs and services. Services are provided by staff and a team of volunteer victim support workers.
- **Family Violence Outreach services** funded through the Ministry of Justice and Attorney General assist women who may not use a shelter or need help in accessing a shelter or other services. Services may include support to women, children and families in violent or potentially violent circumstances, education on abuse and information about services available in the community. These services are provided by community-based organizations who receive funding to provide family violence outreach services.
- The Victims Services Branch of the Ministry of Justice supports a number of specialized community based programs in larger centres where client volume and/or unique needs justify a different delivery model or program for certain client groups, (i.e. victims of domestic violence or sexual abuse). The Community-based Domestic Violence Victim Services Programs are: **Battlefords Domestic Violence Treatment Option Court - Victim Services; Regina Domestic Violence Victim Services; and Saskatoon Domestic Violence Court Caseworkers.**
- Five Victim/Witness Programs provide court orientation and support to children and other vulnerable witnesses who are required to testify in court. The programs' goal is to help reduce the fear, anxiety and further trauma that may occur through testifying. The four programs, located in regional prosecutions offices, offer services throughout the province.

#### Shelters

There are ten provincially funded shelters for women and their accompanying children who are leaving circumstances of interpersonal violence and abuse. One is co-funded with Aboriginal Affairs and Northern Development Canada.

These Transition Houses are owned and operated by legally incorporated non-profit organizations. Funding is provided to the organizations through the Ministry of Justice and Attorney General for the delivery of residential crisis services.

The population served includes women (18 years or older) and their accompanying children who are leaving circumstances of violence and abuse. Four of the Transition Houses also

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provide residential services to females who are 16 and 17 years of age and their accompanying children who are leaving circumstances of violence and abuse.

The nature of the service is twenty four hour, staffed emergency safe accommodation and support for women and women and children leaving an abusive and violent relationship. In addition to short-term safe shelter, services may include crisis and supportive counselling, child care and referrals to community services.

There are three additional off-reserve First Nations shelters in Saskatchewan for women and their children who are leaving circumstances of violence and abuse that are funded through Aboriginal Affairs and Northern Development Canada.

### Programs for Children Exposed to Family Violence

The Ministry of Justice and Attorney General through the Victim Services Branch provides support for Children Exposed to Violence Programs in Saskatchewan, to address the needs of children who are exposed to violence. The programs assist children and youth who have witnessed or experienced interpersonal violence or abuse, with a goal of preventing them from becoming victims or perpetrators of violence and abuse in the future. The programs are delivered by community-based service providers.

### Abusive Partner Programs

The Ministry of Health provides funding for Alternatives to Violence (ATV) programs delivered through Mental Health and Addictions in the Health Regions. Currently, seven Health Regions provide ATV Programs.

### Supervised Access

Supervised access is provided under the Family Justice Services - Supervised Access/Exchange Program:

- Upon court order, supervision of access to children by the non-custodial parent and other family members is provided by trained supervisors in a safe, child focussed environment.
- Supervision of exchanges of children during an unsupervised access period is provided to parties, upon request or court order. A court order is not required. Letters of consent from both parents and/or legal counsel must be received by the program coordinator.
- The program provides services for a maximum of 18 months.
- Family Justice Services also prepares court ordered custody/access assessments.

### Parent Education/Information

- Ministry of Education, Early Years Branch – Programs and Services related to Interpersonal Violence and Abuse
  - [KidsFirst Program](#) – supports vulnerable families to nurture their children from before birth to age five. Integrated services are dedicated to promoting positive

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child development and family interactions. This includes dedicated mental health and addictions outreach, anger management, family counselling, trauma counselling and links to services for families fleeing domestic violence.

- The Ministry of Education has developed a number of [early learning resources](#). These resources highlight the importance of children's expression, social-emotional development, self-esteem and social relationships.
- The Parent Education Unit of the Family Justice Services Branch, Ministry of Justice and Attorney General, offers the Parenting after Separation and Divorce information sessions to people dealing with family breakdown. The Parenting after Separation and Divorce program is now mandatory in all Queen's Bench Court locations in Saskatchewan. Every person commencing a family law proceeding in which custody, access or child support is an issue is required to attend parent education programming.

### Child Education/Information

- Ministry of Education – Health Education
  - The Ministry of Education's role with regard to violence and abuse has traditionally focused on prevention. A major initiative that supports the prevention of family violence is delivered through provincial curricula. Education about family violence is part of Health Education (grades 1-9) and Life Transitions 20, 30 curricula. The curricula include information about family roles and responsibilities, the cycle of abuse, and the development of decision-making, addressing challenges, and conflict resolution.
  - As part of the provincial learning program renewal, the Ministry of Education is currently revitalizing [all curricula](#) at all grade levels. The process includes developing robust curriculum that allows for deeper understanding.
  - The Ministry reviews and recommends learning resources to support curriculum outcomes in all subject areas and at all grade levels. There are several learning resources in fiction and non-fiction and include print and video that address issues related to abuse and family violence. These learning resources include topics such as physical, emotional, and sexual abuse, bullying, conflict resolution, date violence, and others. Resources are continually being reviewed to ensure that relevant and current materials are available for instruction.
- Ministry of Education – Anti-bullying Strategy
  - Since the publication of the *Caring and Respectful Schools: Toward School<sup>PLUS</sup> (2004)* conceptual framework, two support documents were developed by the Ministry of Education to address the prevention of bullying. The first was the *Anti-Bullying Strategy (2005)*, which provided a policy statement on anti-bullying and recommended actions regarding the next steps in addressing the issue of bullying. The second was *Caring and Respectful Schools - Bullying Prevention: A Model Policy (2006)*. This document provided the key components of a bullying prevention policy as well as sample language that school divisions



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might draw on to address each key component. The area of Caring and Respectful Schools works in tandem with curricula designed to improve communication and relationship skills that are critical to learning environments that are consistent, predictable, safe, and positive.

#### Other Services

Other services are operated by legally incorporated non-profit organizations that receive funding through the Ministry of Justice and Attorney General for the delivery of family violence outreach and sexual assault services.

Sixteen family violence outreach programs provide assistance to individuals (primarily women) and families living in violent or potentially violent circumstances. This includes direct services and support, public education on abuse and services available in the local community, and the development of support groups.

Eight sexual assault services provide direct support for victims of sexual assault (men, women and some children) including a twenty-four hour crisis telephone line, crisis counselling, support and accompanying individuals to medical, legal and social services appointments. Other services may include information, referral and education initiatives that contribute to the prevention of sexual assault.

### Court-Based Responses

#### Domestic Violence Court

There are three domestic violence courts currently operating in Saskatchewan: the Battlefords Domestic Violence Treatment Options (BDVTO) Court; the Saskatoon Domestic Violence (SDV) Court; and the Regina Domestic Violence (RDV) Court. These therapeutic courts emphasize healing and provide an alternative to traditional court processes. Models for domestic violence courts vary, depending on the particular resources and needs of the community.

Participation in the DVC Treatment Option is open to all adult accused who are charged with domestic violence and are referred, by the Crown, to the Domestic Violence Court Treatment Option. Participation in the DVC Treatment Option is voluntary, and individuals have the right to plead not guilty, or to choose not to participate in the DVC Treatment Option. Individuals who do not participate in the DVC Treatment Option will proceed as they would through the regular court system.

If an offender successfully completes treatment, then a community-based sentence will most often be considered. Offender involvement in treatment is closely monitored to ensure compliance.

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Resource people such as probation officers, counsellors from domestic violence treatment programs and addiction services, and victim services workers regularly attend court to provide assistance. They also meet with Crown prosecutors and defence lawyers outside of court to discuss offender progress in programming and behaviour, specific victims concerns, and plans for continued intervention or referral back to court for sentencing.

### Tools/Processes to Ensure Safety

- The Ministry of Social Services has implemented the follow Structure Decision Making assessment tools in child protection service delivery in Saskatchewan:
  1. **Screening and Priority Response Tool:** Used by intake workers to assess what reports are to be investigated and how quickly the concern is to be responded to.
  2. **Safety Assessment Tool:** Used by child protection workers to assess immediate safety of children.
  3. **Risk Assessment Tool:** Used by child protection workers to assess the likelihood of future maltreatment of children.
  4. **Family Strengths and Need Assessment:** Used by child protection workers to assess the strengths and needs of caregivers and children in a family which ultimately guides case planning.
  5. **Risk Reassessment Tool:** Used by child protection workers to reassess the likelihood of future maltreatment of children after a period of involvement with a family.
  6. **Family Reunification Assessment:** Used by child protection workers to guide decisions about returning a child home from placement in care.
- **Adult Community Corrections:** Probation offices in most Regions in the Province have specialized teams of probation officers trained in DV dynamics, victims' issues, DV group programming and DV Risk Assessment (ODARA) Ontario Domestic Abuse Risk Assessment and SPRA Saskatchewan Primary Risk Assessment.
- **Domestic Violence Courts:** The ODARA is completed by domestic violence case workers for those accused who request amendments to non-contact conditions. In Regina the ODARA is completed by Family Services Regina. The report is received by the Crown and the Crown discloses to defence counsel. The reports are also shared with probation services and agencies providing treatment to the accused. The report may also be shared with child protection workers, if applicable.
- **Dispute Resolution Office:** Mediators will conduct risk assessments to determine the type and degree of violence to develop the best type of mediation process or inform decision of whether or not they mediate.

### Coordinating Mechanisms

- **Interministerial Committee on Interpersonal Violence and Abuse.**
  - In Saskatchewan, the Interministerial Committee on Interpersonal Violence and Abuse assists in ensuring a coordinated government service response. In addition to its co-chairs from Justice and Attorney General and Status of Women

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Office, it includes representatives from the Ministries of Corrections, Public Safety and Policing (CPSP); Health; First Nations and Métis Relations; Education; and Social Services.

- It also involves collaborative relationships with community partners through organizations such as STOPS (Saskatchewan Towards Offering Partnership Solutions to Violence); the Saskatchewan Association of Sexual Assault Services; the Provincial Association of Transition Houses and Services of Saskatchewan Inc.; and the Provincial Partnership Committee on Missing Persons.
- **Child Abuse and Sexual Exploitation (CASE) Committee** is an inter-ministerial committee co-chaired by the Ministries of Justice and Social Services. CASE addresses prevention, outreach, harm reduction, treatment and law enforcement measures. The inter-ministerial committee works with police, human service providers, First Nation and Métis groups and community-based organizations. Members are linked to national committees in criminal justice, policing, victims services and child welfare areas and can bring that context to the discussions.
- **Provincial Child Abuse Protocol, 2006**. The protocol was prepared the Interdepartmental Child Abuse Committee. The Ministries involved were Social Services, Corrections and Public Safety (now Corrections, Policing and Public Safety), First Nations and Métis Relations, Health, Justice and Attorney General and Learning (now Education). The purpose of the Child Abuse Protocol is as follows (page 8 of the protocol):
  - *The Provincial Child Abuse Protocol provides a framework for a network of local service providers to work together to:*
    - *recognize child abuse;*
    - *ensure children are protected and supported, and their families are assisted throughout the investigation process;*
    - *develop a coordinated and collaborative approach for reporting and investigating child abuse;*
    - *create a guide for developing and implementing local reporting and investigating procedures; and,*
    - *ensure groups or individuals working on behalf of children are aware of their responsibilities.*
- **Saskatchewan Towards Offering Partnership Solutions to Violence (STOPS to Violence)** is supported by funding from Justice and Attorney General and Health. It is a partnership of community organizations, government and individuals working together to promote healthy relationships and eliminate violence and abuse. Representatives from Justice and Attorney General and First Nations and Métis Relations, along with eight community members and the coordinator form the Tasks Committee, which is the administrative body of STOPS.
- **Inter-ministerial Working Group on Privacy and Information Sharing**. The working group was established to review and recommend improvements to the inter-ministerial / inter-agency information sharing related to a cross-government response to child,

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youth and family issues.

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### Legislative Responses

#### Family/Domestic Violence Legislation

The [Family Violence Prevention Act](#) (FVPA) is legislation that offers provision for three protective court orders:

- Emergency Intervention Orders (EIOs);
- Victim's Assistance Orders (VAOs); and
- Warrants of Entry.

The Yukon [Victims of Crime Act](#) became law in the Yukon in April 2011. A Victims' Bill of Rights is an important part of this new law. Under the Act, a victim is someone who, as a result of an act or omission that forms the basis of an offence, suffers bodily or mental injury, emotional trauma, economic loss or deprivation of property. An individual can be considered a victim even if no charge has been laid or the accused has not been convicted. Family members can also be considered victims.

The Victims' Bill of Rights in the *Victims of Crime Act* includes these rights:

- the right to information about the justice system;
- the right to express their views;
- the right to have their property returned when it is no longer needed as evidence; and
- the right to have their needs considered when victim programs and services are developed.

The Victims' Bill of Rights also includes three basic rights:

- Victims have the right to be treated with courtesy, caring and respect;
- Victims have the right to privacy; and
- Victims have the right to expect that the justice system will do what it can to reduce their inconvenience and protect them from intimidation and retaliation.

#### Child Protection Provisions Related to Family Violence

The [Child and Family Services Act](#), which came into force April 30, 2010, is based on guiding principles including: all decisions or actions should be in the best interest of the child; protection of children; maintaining cultural identity; family has primary responsibility, involving extended family members and; involving First Nation early in the process. The new Act includes a mandatory reporting requirement for all Yukon residents who suspect child abuse. It also includes changes in how Family and Children's Services can support families and extended families in caring for their children. Any history of family violence or child maltreatment perpetrated by a prospective care provider, and the effect on the child of any past experiences of family violence or maltreatment are specific factors in determining the best interest of the child (s. 4(1)). Also, emotional harm is listed as a reason for protective intervention and the definition of emotional harm includes: "living in families where domestic violence is an issue."

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<p><b>Policies</b></p> <ul style="list-style-type: none"> <li>• RCMP National Policy – Violence in Relationships Policy (see Annex on Canada).</li> <li>• RCMP “M” Division Violence in Relationships Policy.</li> <li>• Yukon Family Violence Prevention Act.</li> <li>• Yukon Family Violence Manual.</li> </ul> <p><b>Protocols</b></p> <p><b>Specialized Response Unit (SRU)</b></p> <p>The SRU is a four member RCMP “M” Division unit. The primary responsibility is to provide guidance and assistance to general duty members of "M" Division in the investigation of violence in relationships (VIR); sexual assaults; child abuse; and/or elder abuse.</p> <p>The RCMP are members of the following relevant protocols or agreements:</p> <ul style="list-style-type: none"> <li>• The Yukon Domestic Violence Treatment Option Court Protocols and Letters of Understanding (2004) (see below).</li> <li>• The Inter-Agency Agreement for the Investigation of Child Abuse (1998) (see below).</li> </ul>
Crown
<p><b>Policies</b></p> <p><b>Federal Prosecution Service Deskbook, Chapter 28 Spousal Violence Policy</b></p> <p>This policy relates to spousal violence and is intended to reflect the special circumstances of Canada’s three territories. In small northern communities options available to the victims of spousal violence may be limited, for example:</p> <ol style="list-style-type: none"> <li>a. the victim may not have access to the same types of support often found in southern Canada, such as emergency shelters or counselling services;</li> <li>b. the victim may face pressure in the community not to report the crime; and</li> <li>c. absolute prohibitions on contact with the alleged abuser may be unrealistic in a small isolated community.</li> </ol> <p>The policy places primary responsibility for decision-making with the police and Crown counsel rather than with complainants. At all stages of the criminal process, Crown counsel shall engage in appropriate consultation with the police and the complainant to ensure that the complainant is protected, informed and supported.</p> <p>The policy seeks to guide Crown counsel’s discretion, not remove it. Crown counsel must consider and apply other Deskbook policies, including the “Decision to Prosecute” (Chapter 16) and “Victims of Crime” (Chapter 29) policy while bearing in mind the strong public interest in the denunciation and deterrence of spousal violence.</p> <p>The policy has specific considerations on bail (28.4). Crown counsel should require from police sufficient information to determine whether releasing the alleged offender from custody would</p>

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be an unreasonable risk to the safety of the complainant. In some instances if the offender is not detained, the complainant and her children will be forced to leave the family home. Where the court is satisfied that the offender could be released, some restrictions will ordinarily be necessary both to ensure the security of the complainant and preserve the integrity of the prosecution. The policy sets out suggested restrictions. Where the accused is released from custody, reasonable efforts should be made to provide a copy of the release terms to the complainant as soon as practicable.

Chapter 30 of the PPSC Deskbook deals with Parental Child Abduction. The intent of the guidelines is to assist in the uniform application of ss. 282 and 283 of the *Criminal Code*. They are directed to police and Crown counsel to advise when and how charges may be laid.

### Protocols

The prosecution service are members of the following relevant protocols or agreements:

- The Yukon Domestic Violence Treatment Option Court Protocols and Letters of Understanding (2004) (see below).
- The Inter-Agency Agreement for the Investigation of Child Abuse (1998) (see below).

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### Protocols

#### **Inter-Agency Agreement for the Investigation of Child Abuse (1998)**

The signatories are: Health and Social Services, Justice Canada (who represented the Public Prosecution in 1998), Department of Justice, Yukon, Department of Education, Yukon and RCMP.

The guiding principle: successful investigations require cooperation. The protocol covers all stages of child abuse investigation including: receiving reports; interview process; laying of charges; court process; treatment options and; roles and responsibilities of the RCMP, Family and Children's Services and the Crown.

#### **Protocol Agreement between the Department of Education, Health and Social Services and Justice: Regarding Interdepartmental Information Exchange of Children and Their Families (1993)**

Is an agreement between government departments to ensure the appropriate and timely exchange of information between departments while balancing the right to privacy and confidentiality to citizens. The protocol lays out department's responsibilities in attempting to get verbal/written agreement prior to sharing information, and lays out the procedure for resolving conflicts related to information sharing.

#### **Protocol Agreements regarding child protection with three individual Yukon First Nation's**

The protocols were created with intent to enhance service delivery. The principles are similar to the *Child and Family Services Act* and include consideration of the best interest of the child,

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protection, maintenance of cultural identity and inclusion of First Nation in decision making. The protocols cover investigation, the notification of the First Nations and the process for placement of children.

Child protection services are also members of the Yukon Domestic Violence Treatment Option Court Protocols and Letters of Understanding (2004) (see below).

## Service-Based Responses

### Victim Services

#### **Victim Services - Yukon Department of Justice**

The victim services are a government run, community based service. They will see victims and secondary victims of any crime. They accept referrals from all sources, though work closely with the RCMP. Victim services provide support whether or not a crime has been reported and throughout all stages of the legal process. Victim services are members of the Domestic Violence Treatment Court.

#### **Victim Assistance Volunteers (VAV)**

VAVs are a police-based service offering immediate, after-hours and emergency support to victims of crime.

#### **Crown Witness Coordinators (CWC) – Public Prosecution Service Canada**

The CWC program is unique to Canada's three northern territories – Yukon, Northwest Territories and Nunavut. CWCs typically liaise and share information with Crown prosecutors, locate victims and witnesses involved in court cases, prepare victims and witnesses for court, support and accompany victims and witnesses during their court process and, when appropriate, refer them to supportive community services.

### Shelters

Yukon has three shelters for women and their children seeking safety. One in the main centre of Whitehorse and two in the smaller communities of Dawson City and Watson Lake. Shelters in Whitehorse and Watson Lake include second stage apartments for women and their children seeking longer term secure housing.

### Abusive Partner Programs

#### **Spousal Abuse Program, Yukon Department of Justice**

The Spousal Abuse Program provides individual and group treatment to persons who have been or are abusive in their intimate relationship. They follow the Respectful Relationship program. Group treatment is the preferred treatment and groups run regularly for ten-week periods throughout the year. The program accepts court mandated clients.



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Court-Based Responses
<p><b>Domestic Violence Court</b></p> <p><b>Yukon Domestic Violence Treatment Option (DVTO)</b></p> <p>The Domestic Violence Treatment Court was developed in 2000. It is a therapeutic alternative that helps motivate offenders to take responsibility for the violent behaviour early in the justice system process and to understand and ‘unlearn’ this behaviour. At the same time, it uses the authority of judges to monitor the behaviour of offenders in order to maximize the safety of victims. The DVTO Court has a specialized caseload and is handled by dedicated judges and key partners such as RCMP, Public Prosecution Service of Canada, Family and Children Services, Probation and Victim Services. The goals of the court are as follows:</p> <ul style="list-style-type: none"> <li>• encourage more disclosures of domestic violence;</li> <li>• provide for early intervention;</li> <li>• provide a non-adversarial, therapeutic court-based alternative to formal criminal court as a means of responding to domestic violence;</li> <li>• reduce the high collapse rate for domestic violence charges;</li> <li>• hold offenders accountable in a meaningful way;</li> <li>• provide a therapeutic sentencing option to offenders under the close supervision of the court and treatment professionals;</li> <li>• encourage early acceptance of responsibility and early guilty pleas by perpetrators of domestic violence; and</li> <li>• provide protection, information and support for victims.</li> </ul> <p>Signatories are: Health and Social Services, Justice Canada (who represented the Public Prosecution in 1998), Department of Justice, Yukon, Department of Education, Yukon and RCMP.</p>
Coordinating Mechanisms
<p><b>Coordinating Committees</b></p> <p><b>Framework Committee on Domestic Violence and Sexual Assault</b></p> <p>In response to Sharing common Ground: Review of Yukon’s Police Force, an interagency working group was created, including representatives from Justice, First Nations, women’s organizations, RCMP, medical professionals and PPSC to develop a comprehensive framework for responding to domestic violence and sexualized assault.</p> <p><b>Family Violence Action Plans</b></p> <p><b>Victim’s of Crime Strategy</b></p> <p>The Victims of Crime Strategy is a framework document that will guide Government of Yukon programs and services for victims of crime, and assist in furthering work with partners to address the needs of victims of crime. The strategy explores ways to enhance programming and services, paying special attention to addressing violence against women. It will help examine legislative options that will provide greater rights for victims.</p>

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<b>Key Reports</b>
Yukon, <a href="#"><i>Sharing Common Ground: Review of Yukon's Police Force Final Report</i></a> by Simone Arnold, Peter Clark & Dennis Cooley (Whitehorse: 2010).