

Yukon

Domestic Violence Treatment Option Court

Protocols and
Letters of Understanding



June 2004

Yukon
Justice

Domestic Violence Treatment Option Court

Court Process

- ◆ After the **RCMP** have laid a **charge** that involves allegations of domestic violence, and/or related charges, a Court date will be issued for the Accused to attend DVTO Court on a Monday afternoon.
- ◆ Prior to the first appearance, if possible, Defence Counsel will review the case with the Accused and **explain the DVTO Court Process** to them. If the Accused chooses to proceed with the case through DVTO Court the matter will be adjourned for approximately two weeks. Before leaving court the Accused will be given an appointment time for him/her to attend the FVPU.
- ◆ During the two week adjournment, the Accused will be required to meet with the Spousal Abuse Program (SAP) counsellors and participate in the **Intake Assessment** which will determine if the Accused is eligible for treatment through the SAP.
- ◆ If the Accused is eligible for the SAP **and chooses** to proceed through the DVTO Court process, they will appear in court and indicate that they are accepting responsibility for the charge(s) by entering a **Guilty Plea** to the agreed upon charge(s).
- ◆ The matter will then be adjourned for an extended period, during which time the Offender is required to participate in a counselling program which will include a **Full Assessment, One to One sessions, Group Counselling Sessions, Case Conferences** and follow up which may include a **Relapse Prevention Program**.
- ◆ During the adjournment period, the Offender will be required to attend court and report on his/her progress through the program. These court appearances known as "**monthly check-ins**" will be required monthly or as often as agreed upon by the parties at a Pre-court meeting. The Offender may appear on these dates with or without legal counsel, but treatment staff will be present to assist with any information that may be required by the court.
- ◆ Upon completion of the SAP program the treatment counsellors will provide a **Treatment Report** outlining the participation and treatment progress of the Offender as well as any recommendations to address any future treatment and safety issues.
- ◆ A copy of the Treatment Report will be given to the Offender, defence counsel, the crown and the Court.
- ◆ During the course of the treatment a decision will be made by the lawyers and the treatment team regarding the necessity of a **Pre Sentence Report (PSR)**. A PSR will be ordered if it is appropriate for the case. A **Sentencing Hearing** will be scheduled on a date approximately one month after the completion of the SAP Group Program. The sentence will reflect the participation and progress of the Offender through the treatment process as well as the Criminal Code sentencing principles. Sentences will almost always include a lengthy period of **Probation** which may require the Offender to continue or repeat components of the Treatment programs.

Yukon Territorial Court

Domestic Violence Treatment Option

In 1999 a dedicated group of professionals began to question the response of the justice system with respect to domestic violence cases. The group expanded to represent all aspects of the community and their work with families, victims and offenders. The group evolved into a Steering Committee for the development of the DVTO Court which began regular sittings in the Yukon Territorial Court in March of 2001.

The Domestic Violence Treatment Option Court recognizes that domestic violence is a serious criminal act that has a huge impact on individuals, families and communities. The Steering Committee concluded that the criminal justice system required a more innovative response to domestic violence combining the court system, offender treatment and victim related supporters and services.

Each member of the Steering Committee made a commitment to the DVTO Court process and expressed that commitment through a Protocol or a Letter of Understanding, all of which are contained in this book.

We want to acknowledge all of the hard work and dedication of those who dare to believe that the world can change:

- The Steering Committee members, who stretch their imaginations, budgets and workloads to tackle the enormous problem of domestic violence;
- The lawyers, staff and treatment professionals who have worked tirelessly to direct the evolution of this court and to keep it relevant for their clients;
- The women and children who have bravely come forward trusting that we can offer them a justice system alternative that addresses their needs;
- And perhaps most significantly, the men and women who chose to enter the treatment program and truly begin the path to changing their abusive behavior making their families and communities safer places to live.

“It is never too late to be what you might have been” George Eliot

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DOMESTIC VIOLENCE TREATMENT OPTION RCMP Protocol

Introduction

The RCMP Yukon supports the Domestic Violence Treatment Option (DVTO) program. The RCMP recognizes that domestic violence is a serious criminal offence. The RCMP will work in a cooperative manner with concerned agencies to seek solutions to the serious problem of domestic violence.

Responsibilities of the RCMP

The RCMP recognizes that in the Yukon Territory it is their responsibility to investigate all complaints of domestic violence.

Guiding Principles

The RCMP "M" Division will commit to:

- participate on territorial committees for the purpose of maintaining inter-agency partnerships.
- continuously evaluate and update RCMP training in the area of domestic violence.

The RCMP Whitehorse detachment will commit to the following guiding principles:

- to conduct a thorough and timely criminal investigation concerning all complaints of domestic violence.
- to audit domestic violence investigations quarterly.
- to expedite, when feasible, all domestic violence investigations.
- to set the first court appearance for criminal charges to the first available pre-arranged sitting of the DVTO court.
- to use the DVTO/RCMP checklist when investigating complaints of domestic violence.

March 13, 2002

Crown Protocol

Domestic Violence Treatment Option: Crown Protocol

Introduction:

The institution of mandatory charging and prosecution policies have signalled the seriousness with which the Crown views domestic violence cases, and have contributed to the growing recognition that domestic violence is not a family problem, but rather is a serious criminal and societal problem.

It is important to continue to take domestic violence seriously, but experience has shown that there is a need to explore different approaches, like the Domestic Violence Treatment Option, in an effort to encourage more victim disclosures and to have more impact on reducing violence. Such alternatives require a different approach to prosecution, demanding increased cooperation with other agencies, education and training, and sensitivity to victim needs.

Roles and Responsibilities of Crown Counsel:

1. Designated Crown:

The Domestic Violence Treatment Option requires a high degree of communication between individuals and agencies, as well as a clear understanding of the dynamics of domestic violence. To meet these requirements, it is essential that there be a specially trained designated crown assigned to the Court.

- by assigning a designated crown
- by assigning a designated alternate crown to ensure continuity and consistency, in case of illness or absence
- by requiring both to participate in ongoing specialized training on domestic violence and its impact on victims

2. Relationship with the RCMP

As a prerequisite, the Domestic Violence Treatment Option requires cases that have been thoroughly investigated, ensuring a reasonable likelihood of conviction. This, in turn, requires a closer liason between the RCMP and the Crown, particularly in the areas of evidence gathering, court brief preparation and training.

- by providing training to the RCMP
- by assisting the RCMP in developing an investigatory protocol for domestic violence cases which would require the gathering of evidence which could be used independent of the victim's testimony, including properly taken KGB statements, photographs, medical reports, recordings/transcripts of 911 calls for assistance, and third party witness statements
- by vigilantly completing charge reviews to ensure that such evidence is routinely gathered
- by working with the RCMP to ensure that disclosure on all domestic violence cases is expedited and complete
- by working with the RCMP and other crown to ensure that all domestic violence cases are set to or adjourned to a sitting of the Domestic Violence Treatment Option Court.
- by providing a reporting letter to the RCMP, upon completion of the sentencing, which sets out the sentence given, the reasons for the sentence and a brief synopsis of the offender's performance in the program.

3. Interaction with Victims and Victim Services:

Crown should develop procedures to maximize communication with victims and Victim Services. Such procedures should ensure that victims are able to comfortably voice their concerns; that the input of victims is sought with respect to major decisions; and that victims are provided with clear and comprehensive information about the legal process, in general, and about their offender's proceedings, specifically.

- by being available immediately before court to speak to victims
- by being available to speak to victims by telephone or in person at any other time, upon the request of a victim
- by working with the Victim Service Worker to ensure that the victim is provided an explanation prior to court of what is likely to happen that day in relation to the case involving the victim and answering any questions the victim may have
- by ensuring the victim's position, needs and concerns are communicated to the Court

- by explaining all major decisions to the victim before court and seeking the victim's input on such decisions
- by meeting with the victim and/or Victim Services after court and explaining what happened in court, what the offender must do, and reviewing with the victim the bail terms of the offender

4. Safety of Victims:

Crown should consider victim safety as the paramount consideration in determining the crown's position on release of the offender, variation applications and sentencing.

- by consulting with treatment professionals and Victim Services to gather offender risk management information and provide such information to the Court at appropriate points in the process
- by receiving training in the use of proven risk management instruments such as SARA (Spousal Assault Risk Assessment), and by incorporating the use of such tools into practice and submissions
- by encouraging the RCMP to begin using proven risk management instruments such as SARA

5. Incentives to Offenders:

To encourage offenders to opt into the Domestic Violence Treatment Option, the Crown must ensure that defence counsel are provided with disclosure of particulars and with Crown's position on sentencing, in both regular court and in the Treatment Option, to ensure that defence counsel is in a position to fully advise their clients.

- by providing disclosure to the designated defence counsel prior to the first court appearance, wherever possible
- by assessing each file and determining positions for sentencing in both regular court and the Domestic Violence Treatment Option. The Crown's position on sentencing should be viewed by the offender as providing a significant benefit and incentive to elect the Treatment Option.
- by clearly conveying both positions to the designated defence counsel
- by clearly documenting the crown file to ensure consistency

6. Offender Accountability:

The Crown should take positions that promote offender accountability.

- by requiring a clear acceptance of responsibility on the record
- by requiring frequent court appearances to monitor the offender's progress
- by pursuing breaches of release and probation conditions

7. Cooperation and Coordination:

The Crown should actively foster a cooperative working atmosphere with all other participants in the Domestic Violence Treatment Option process.

- by treating all participants with respect and courtesy
- by sharing information
- by being available to provide training to other participants in the process and to receive training from other participants in the process
- by attending and participating in pre-court meetings, working group meetings and steering committee meetings

8. Ongoing Commitment

The Crown should continue to evaluate this protocol in light of developing experience, and amend as needed.

Yukon Legal Services
Society
Letter of Understanding

YUKON LEGAL SERVICES SOCIETY

Legal Aid

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November 29, 2001

D.V.T.O. Court Designated Legal Aid Defence Counsel Letter of Understanding

Without limiting the generality of the foregoing, designated Legal Aid Defence Counsel's ("Defence Counsel") role in D.V.T.O. Court is as follows:

1. Defence Counsel will attend all scheduled Monday D.V.T.O. Courts. It is the current understanding that said Courts will be scheduled approximately twice per month. If it is determined that greater Court frequency is required, the availability of Defence Counsel will have to be reviewed.
2. Defence Counsel, or his or her designate, will make best efforts to attend all Steering Group, Working Group and Pre-court meetings.
3. Legal Aid will make best efforts to ensure that no more than two designated staff lawyers are assigned to this Court.
4. Defence Counsel will meet with all accused persons attending at the D.V.T.O. Court for first appearance. They will brief said individuals on the details of the D.V.T.O., including the expectations the program has of accused persons, the time commitments, the acceptance of responsibility, and the likely result of the sentencing upon successful completion of the program.
5. If time permits, Defence Counsel will conduct a review of disclosure with accused persons at first appearance. If time does not permit a thorough review of disclosure, Defence Counsel will make application to adjourn the matter for a period of two weeks to ensure that an informed decision can be made by the accused person.

6. After providing preliminary advice, Defence Counsel is not responsible for representing individuals who are not financially eligible for Legal Aid assistance.
7. In furtherance of the above-noted policy, after the first appearance, accused persons will be urged to specifically apply for Legal Aid in order to determine ongoing eligibility.
8. Defence Counsel will represent Legal Aid eligible clients in D.V.T.O. Court to the completion of their matters.
9. Yukon Legal Services Society is supportive of the goals and objectives of the D.V.T.O. Court. However, it is essential for all participants in this process to be aware that Defence Counsel's ultimate responsibility lies in protecting the best interests of his or her client. To that end, Defence Counsel may make unpopular decisions and submissions which, at first blush, may not appear to be consistent with a "team approach."
10. Ultimately, Defence Counsel receives instructions from his or her client and, limited only by the parameters of ethical conduct, Defence Counsel must follow those instructions and argue stridently and forcefully to advance his or her position. This is the essence of advocacy and does not involve the promotion of strongly-held, personal beliefs.

The above provides a brief synopsis of Defence Counsel's involvement in the D.V.T.O. Court. If any participants have any specific questions or concerns, please do not hesitate to contact me.

Yours very truly,

Nils F. N. Clarke
Barrister and Solicitor
Executive Director

NFNC/ds

cc: Gordon Coffin

Role of Judges and Domestic
Violence
Protocol

The Yukon Domestic Violence Option Court

PROTOCOL FOR JUDICIARY

Judges and other court managers face increasingly difficult challenges as the public raises its expectations of the court, not only to adjudicate and sentence offenders, but to act proactively to solve some of the community's most pressing problems. Domestic violence has in recent years become one of the justice system's most difficult challenges. It is a challenge because of the prevalence of domestic violence in our society, because it is a major cause of injury and death to women and because it causes significant emotional and developmental damage to children who merely witness it. Overall, the financial cost to society is high, conservatively estimated in the billions of dollars annually. But perhaps more importantly, the challenge lies in the fact that, after a decade of practising zero tolerance, it is apparent that our conventional courts have not been successful in reducing the occurrence of this serious offence. Indeed, there is an increasing concern that the conventional justice system may contribute to, rather than ameliorate the scope and severity of the problem.

Judicial officers can make an important contribution towards improving the justice system response to domestic violence. They have a professional educational responsibility to become knowledgeable about the underlying causes, dynamics and effective responses to domestic violence. An informed judge is well positioned to communicate by words and conduct that the court views these cases seriously. The judge can influence the performance of police and prosecutors by insisting on professional investigations and prosecutions. The judge also has a responsibility to control his courtroom and must ensure that counsel treat witnesses, probation staff and treatment personnel with courtesy and respect.

Victims of domestic violence are different from other witnesses that attend court on a daily basis and it is important for judges to be sensitive to these differences. Domestic violence victims, unlike other victims of crime share a special relationship with the perpetrator. Unlike stranger assaults, victimization in a domestic situation is much more likely to be repetitive and escalating. A variety of factors, including family pressures, religious or cultural beliefs, economic dependency on the perpetrator and concerns about the welfare of children distinguish domestic violence victims. The offender often has unique access to the victim, either through a continuing relationship or through common children. As a result of these and other variables, domestic violence cases present very complex legal, psychological and sociological challenges. And unlike most crimes, invoking the justice system can actually place the victim at greater risk by escalating the level of violence. Finally, there is the knowledge that only a small proportion of domestic violence victims call the police for help

and of those that do, only a minority follow through with the prosecution of the case.

These factors should compel judges to approach domestic violence cases differently and with greater sensitivity. Not only must the judge appreciate the complexity and difficulty of the complainant's situation, the judge must also balance due process for the offender and judicial neutrality with the victim's special needs and vulnerability while maintaining the public's confidence in the justice system. These are also the goals of the Yukon Domestic Violence Treatment Option and require, as a minimum, that the judge assume the following responsibilities:

- Ensure that all participants, but especially the offender and the complainant, understand the DVTO Court process and possible outcomes;
- Communicate by actions and words the seriousness of domestic violence offences;
- Prior to finalizing any decision, consider the impact on the safety of the complainant.

Courts are only one institution among many in society that have an obligation to respond to family violence. To do our job well, judges will need to be aware of and even work together with these institutions. But we must do this in a way that that does not affect our independence and neutrality.

This protocol is a guideline for judges, who deal with domestic violence cases and sit in the Yukon DVTO Court. This protocol also identifies a number of things judges can do within the existing justice system to improve the delivery of justice to victims and offenders on behalf of our communities.

1. Improving communication among the service delivery personnel will help ensure that the system speaks with one voice about the offender's treatment plan, progress, and eventual success. It is critical, that everyone involved in the process, is able to access a common mechanism for sharing information. The court has an important role to play in this regard. Information sharing is facilitated by insisting on a periodic reviews of the offender's progress in an open and public court room and by encouraging all interested persons, including treatment providers, to be in attendance.
2. Exhibiting the appropriate judicial demeanour towards both parties will increase compliance with court orders. The judge must not allow an offender to minimize his behaviour or blame the victim. Denial, rationalization, and minimization are coping methods used by offenders. These cognitive distortions must be confronted in the courtroom whether put forward by the offender himself or his counsel.

3. Domestic violence cases should be fast-tracked to the "plea" stage. Prior to plea, any adjournments should be as short as possible. Regular court contact should be maintained by insisting that the accused appear in person.
4. The needs of children should be identified at an early stage of the proceedings and appropriate referrals to other services should be made as necessary.
5. To the extent possible, domestic violence cases should be coordinated with other related court proceedings including custody, child welfare and other criminal matters, in order to avoid conflicting or incompatible orders.
6. Make orders which are enforceable, clear and unambiguous and which will not be subject to interpretation by police or other authorities. Acknowledge the possibility of changing circumstances by making your order subject to any further order of a court of competent jurisdiction.
7. Always consider whether a mutual no contact and communication order is founded on the evidence and whether the court is unconsciously supporting "control" by an abuser.
8. Judges must be aware of resources for offenders, including treatment programs available in their community.
9. Understand that while alcohol is a presenting factor in a great majority of family violence cases, alcohol does not cause the violence. Alcohol treatment is not a substitute for batterer treatment.
10. An offender may propose couples or family counseling as a treatment response. Experts advise that such forms of counseling are ineffective and can be dangerous.
11. Judges should understand that domestic abuse escalates over time without intervention.
12. Judges should identify goals for judicial intervention in domestic violence cases and use these goals as a benchmark as the case proceeds through the court:
 - Stop the violence/emotional/psychological abuse
 - Protect abused party/children
 - Protect other family members
 - Hold perpetrator accountable
 - Rehabilitate perpetrator
 - Message to public that domestic violence is a serious matter and that it is not a private family matter
 - Break intergenerational cycle of violence

13. Judges control their courtrooms and have a responsibility for the behaviour of counsel and other persons in the courtroom. Judges should be aware that the exercise of power and control by offenders often extends into the courtroom. Insist on proper courtroom decorum.
14. A judge working with other judges and administrative judges can ensure that the courthouse and court personnel are witness-friendly.
15. Judges can play a leadership role in continuing education for the bar, including Crown and defence, in areas such as domestic violence.
16. As experienced jurists and respected members of the community, judges are encouraged to participate in public legal education even in difficult areas such as domestic violence.

June 10, 2004

Chief Judge Heino Lilles

Spousal Abuse Program Protocol

Domestic Violence Treatment Option: Spousal Abuse Program Protocol

The Spousal Abuse Program (SAP) is an integral component of the Domestic Violence Treatment Option (DVTO) Court. The role of the Spousal Abuse Program has in DVTO is to provide early intervention, information and therapeutic initiatives and programming to offenders in this multi-faceted, co-operative approach to ending domestic violence. The Spousal Abuse Program focuses on providing efficient and concise treatment for both male and female offenders of domestic violence.

The first and foremost objective of all our involvement in domestic violence cases is the safety of every member of the family – the adult victim, the children who have often witnessed or experienced violence and connected third parties. The Program philosophy recognizes that spousal abuse is on a continuum of behaviours, both physical and psychological, rooted in learned behaviours and issues of power and control. Treatment encompasses the broader definition of abuse, which includes a wide array of behaviours that may be controlling or hurtful in nature. Most clients want and need healthy relationships but often have many internal and external barriers to overcome.

A therapeutic atmosphere of modeled respect and caring is created to increase the participant's willingness to examine how their behaviour affects both themselves and those around them and to fully explore the underlying issues directly related to abusive and controlling behaviours without allowing an evasion of personal responsibility for abuse. The therapeutic relationship is essential to helping offenders change both their behaviours and their attitudes. The group component of the Spousal Abuse Program uses a variety of techniques and approaches in treatment, including psycho-educational, behavioural modification, resocialization and cognitive behavioural therapy. Simple anger management without emphasis on power and control issues and the need for more equality in the relationship may increase the risk of more sophisticated abuse to meet power needs.

Safety is the primary philosophy of the Program and is continually emphasized. Treatment focuses on assisting offenders develop responsibility, accountability and ownership of their thoughts, feelings and behaviours, promoting a greater awareness of the impact of their abusive actions. Clients receive practical information and continually practice skills and techniques for managing their behaviour and exploring their belief systems and emotions in order to start the process of integrating new behaviours into their daily lives. The use of respectful, empathic, non-controlling and non-violent relational skills are explored. It is through this response that we see healthier individuals going on to have healthier relationships in every aspect of their lives.

PROCESS:

1. In order to be eligible for the D.V.T.O, the offender must, at a very early stage of the proceedings, accept responsibility for their actions. At that point, they are given an intake appointment with a Spousal Abuse Program counsellor, usually within a week.
2. The client attends the SAP offices for an intake assessment to determine suitability for treatment. This is normally completed within two weeks. Almost all clients are accepted unless some of the following characteristics are present:
 - severe mental illness
 - brain injury
 - extreme denial
 - inadequate language skills
 - severe substance abuse
 - lethality/dangerousness
 - psychopathology
3. When the initial assessment is completed, the counsellor writes a letter of acceptance or refusal to the court. The reasons for refusal are outlined and other recommendations, such as pre-requisite alcohol and drug treatment, may be made to the Court.
4. Once accepted to the program, a guilty plea is entered and a counsellor is assigned and the offender begins the full assessment process. A full assessment identifies and explores patterns of behaviour, experiences and belief systems, and measure levels of resistance to change and level of commitment. The assessment also includes consent for release of information generally contained in an information package received from the Adult Probations case manager. This package may include Police Report to Crown Counsel, Circumstances of the Offence report, criminal record, Spousal Abuse Risk Assessment, Level of Service Inventory scores, alcohol and drug assessments, psychological reports, previous case plan and progress reports, probation orders and pre-sentence and bail supervision reports.
5. Individual counselling is undertaken with the offender to establish a solid therapeutic relationship and to address specific issues. Although important, it is an adjunct to the main process of group therapy.
6. The offender enters the first available treatment group. Group treatment is the overwhelmingly preferred method of treating this population. Group allows more effective confrontation of denial, simultaneously enhances responsibility for behaviour and encourages the development of self-esteem and relationships with other men. A male-female team of co-

facilitators models respectful communications and provides the men an opportunity to explore issues with a healthy woman and a healthy man. For the female offender group, the facilitators are female –female.

7. Any concerns, such as breaches of the participation agreement or non-participation, are dealt with immediately. The client's progress is continually monitored by the facilitators through periodic case conferences with Adult Probation staff. Progress is also monitored through regular appearances in Court while the offender is in Program
8. On completion of the group treatment component, SAP staff issues a progress report to the Court. Progress is measured by the facilitators' observations of the offenders response to the activities and challenges in group, and shifts in his accountability – such as reduced minimization, denial and blaming, acceptance of responsibility for his thoughts, feelings and behaviours, and reflective examination of his belief systems. A final report, developed with each client, will reflect the offender's response to treatment and include recommendations.
9. These recommendations will then become a vital part of treatment follow-up. After-care is a critical component of treating batterers. Maintaining a comprehensive therapeutic relationship with the counsellor allows the client to address relapses and ongoing risk and safety issues, and to further develop emotional management skills. After-care can be done one-on-one or via a bi-weekly Relapse Prevention group. Referrals are also made to outside organizations to handle specific issues, such as the long-term treatment of childhood trauma.
10. Once treatment has been completed, clients are encouraged to maintain contact with the Spousal Abuse Program on an "as needed" basis.

Victim Services Protocol

VICTIM SERVICES PROTOCOL
For Domestic Violence Treatment Option
Victim Services/Family Violence Prevention Unit
Department of Justice
Government of Yukon
June 4, 2004

Introduction:

Most domestic violence takes the form of violence against women by their male partners who wish to exert their power and control. Violence is generally a learned behaviour, and may have become normalized in the relationship.

It may be difficult or impossible for a woman to leave the violent relationship because of love, dependency, cultural and religious values, lack of support, financial barriers or fear. The violence can continue or even escalate if she leaves or threatens to leave the abusive partner. The power imbalance inherent in a violent relationship is perpetuated by societal and individual values and messages which undermine the efforts of victims to gain control of their situations and to have offenders held accountable for their actions.

In the past, as a result of societal attitudes and a lack of understanding of the dynamics of spousal assault, the criminal justice system has often caused the secondary victimization of women, and, of course, their children. By including victims' concerns at every level of the court process and by educating participants and the public about the often tangled dynamics of domestic violence, Victim Services constitutes an essential component of the Domestic Violence Treatment Option.

The most important task of Victim Services is to address the physical and emotional safety of victims of domestic violence. In addition, Victim Services will provide the victim with information, support, counselling and referrals, as well as serving as an informational conduit between the Court, Crown, Spousal Assault Program, Probation Officers and the victim.

Roles and Responsibilities of Victim Services:

- Through collaboration with the RCMP, Victim Services will receive relevant R.C.M.P. referrals Mondays to Fridays. and liaise with the R.C.M.P.
- These intakes will be assigned to a Victim Service Worker as soon as possible depending on the urgency of the case. The worker will complete an intake form. If a worker is already working with a victim, that worker will be notified of the new incident.
- The assigned worker will attempt to make contact with every victim as soon as possible, usually on the day of assignment, to offer services including assistance with obtaining medical treatment, crisis counselling, and support and safety planning.

- During the initial contact, an initial safety assessment is done with the victim and they are provided with a copy of the undertaking as soon as it is available.
- Victim Services will notify Family and Children's Services when children are exposed to domestic violence, if the RCMP has not already done so.
- When a Bail Supervision Report is being prepared, Victim Services will forward any relevant information, including victim's concerns, to the Probation Officer and Crown in writing if time permits, or verbally if not.
- The worker will follow up by providing information regarding the court process and the VS/FVPU women's counselling program. Referrals may also be made to agencies such as Child Abuse Treatment Services, Yukon Family Services Association, Alcohol and Drug Secretariat, Mental Health Services, Kwanlin Dun Wellness, etc.
- If the offender is already involved with the Criminal Justice System, Victim Services will liaise with the Spousal Abuse Program and/or Probation Officer.
- If the victim reports a breach of the Undertaking to Victim Services, we refer the victim to the RCMP to provide a statement and liaise with the Spousal Abuse Program and Probation Officer.
- We participate in pre-DVTO docket meetings with other participants and provide information as appropriate.
- We attend court with the victim if they choose to attend, provide information to them if they don't, and provide information to the Court if requested.
- We maintain contact with the victim throughout the process to provide information, to offer supportive counselling if requested and to reassess safety as needed.
- We maintain an ongoing integrated case management process with other agencies involved, including case conferences.
- We offer the victim an opportunity to provide a Victim Impact Statement, either written or in-person for sentencing.
- We provide continuing contact and counselling as long as requested, and refer to the Woman's Program or other counselling services.
- No Contact Orders – when a request is made to lift a no contact order, Victim Services liaise with Spousal Abuse Program staff and/or Probation Officer to look at safety issues. We may engage in safety planning with the victim. All decisions are made in a collaborative/team management approach.
- Victim Services will not provide the court with an opinion on the advisability of lifting of the no contact order. Risk assessment is to be done by the offender in consultation with Spousal Abuse Program counsellors. Victim Services' philosophy is to support and empower victims to make their own informed decisions. However, on occasion, due to cognitive impairments or the young age of the victim, we may express concern about the victim's ability to assess her own situation.
- Several attempts will be made to contact every victim of spousal abuse by telephone, collateral contacts, home visits or occasionally by letter. If there is no response, Victim Services cannot force a victim to contact them or participate in the program.
- The reasons victims are often unwilling are many and varied. They include fear, mistrust of the criminal justice system, isolation, love, confusion and trauma. If a victim is unwilling to participate, they are offered information and the door is left open for future contact.

Adult Probation Protocol

Domestic Violence Treatment Option (DVTO) Adult Probation

Introduction

Probation Officers play an important and necessary link between the offender, the court, the community, the victim, and the referral agencies. Adult Probation Officers in Yukon are guided by the following two program objectives as identified by the Department of Justice, Community and Correctional Services:

To contribute to the protection of society and the health of communities using a Restorative Justice Approach framework which provides Community and Institutional based approaches for healing and reparation.

To provide programs and services for victims and offenders that have as their primary goal safe integration of the offender into the community as law abiding citizens.

These program objectives authorize corrections involvement and foster utilizing innovative approaches to assisting both victims and offenders.

Probation Officers provide a specialized service to the court, the offender, the victim and the community. Probation Officers are firstly officers of the court and peace officers charged with assisting the court in gathering information, supervising court orders, and assisting offenders and victims. When providing services the probation officers adhere to the following guiding principles.

To reduce recidivism through assessment, planning and interventions

To identify high risk offenders and provide specialized interventions

To administer court orders in an effective and efficient manner

1. Roles & Responsibilities Of Adult Probation

Adult Probation Services plays a crucial role in the supervision of individuals engaged in the DVTO process. As the primary case manager the probation officer is responsible for providing sound case planning in an integrated manner with all members of the case management team throughout the entire process. The Probation Officer's involvement starts prior to the accused first appearance in court and continues until file termination. To meet the requirements for sound case management Adult Probation Services will dedicate two senior probation officers to assist with the DVTO in Whitehorse. Regional probation officers will be responsible for the DVTO cases in the respective communities. The Probation Officer is ideally situated to facilitate the flow of information between

the DVTO and the community and in this capacity will assist the timely and appropriate release of pertinent information to interested parties.

- Review the docket on DVTO court days and ensure that all relevant information that is available is gathered prior to court.
- If the individual on the DVTO docket is already clients the DVTO probation officer will contact the supervising probation officer to apprise themselves of all relevant information regarding the clients current status on bail, probation or conditional sentence.
- If the accused has an existing file in another jurisdiction the probation officer may request assistance in accessing relevant information from that jurisdiction.
- Participate in the pre-court meeting and present information on relevant cases before the court and make appropriate sentencing recommendations based on the current relevant information.
- Attend at DVTO Court to respond to questions from the court.
- Should the accused be placed on a Recognizance or an Undertaking the PO will review the order with the accused within 3 working days. During the initial meeting with the accused the PO will review the reporting instructions to both the PO and the FVPU and any special conditions, e.g. no contact conditions. The PO will explain the consequences of non-compliance with any condition.

2. Relationship with the Crown:

- Participate in the pre-court meeting and present information on relevant cases before the court and make appropriate sentencing recommendations based on the current relevant information.
- Should the client reappear in court for a breach of a DVTO court order the PO will initiate contact with the RCMP, the FVPU, and other relevant players to ascertain the clients status within the community , the FVPU program, the home, or any other relevant information that has a bearing on the status of the client. The PO will track the case and provide information necessary for prosecution if required/

3. Relationship with Family Violence Prevention Unit (FVPU)

- The PO will direct the client to establish contact with the FVPU as per their agreement with FVPU made after DVTO court.
- Should the client reappear in court for a breach of a DVTO court order the PO will initiate contact with the RCMP, the FVPU, and other relevant players to ascertain the clients status within the community , the FVPU program, the home, or any other relevant information that has a bearing on the status of the client. The PO will track the case and provide information necessary for prosecution if required/
- Offenders are expected to follow through with the commitment to complete all relevant treatment.

4. Safety of Victims

When a request is received from the Court for a Bail Supervision Report the PO will address, at a minimum, the following:

- Whether there is a history of violence or abusive behavior, and if so details of the past abuse.
- Whether the complainant fears further violence if the accused should be released and, if so, the basis for the fear.
- The complainant's opinion as to the likelihood of the accused obeying terms of release, in particular no contact provisions.
- Whether the accused has a drug or alcohol problem, or a history of mental illness.
- The PO will use the guidelines in R. v. Bliele, Reasons for Judgement of the HONOURABLE MR. JUSTICE PETER MARTIN as a basis for all Bail Supervision Reports in DVTO.
- The supervising Probation Officer shall complete a risk needs assessment using both the LSI and the SARA as soon as practical, but no less than 15 working days after the offender has been accepted by the FVPU. These assessments shall be discussed with both the offender and the FVPU treatment team.

- The PO will route all interactions with the victim through the assigned Victim Services Worker unless the victim or victim services otherwise directs. There will be times when the victim may not be connected with Victim Services and at these times interaction with the victim will be initiated and maintained by the PO should the victim agree. In any case, all interactions with the victim will be discussed with and guided by Victim Services.

5. Relationship with Offenders:

- Offenders are expected to follow through with the commitment to complete all relevant treatment.
- The supervising PO will meet and case conference with the FVPU on a timely basis to keep apprised of the offender's progress. At the case conference special attention will be directed to any indication of escalation in risk factors on the part of the client.
- All relevant file information will be gathered, reviewed and forwarded to FVPU within two weeks of the client's first appointment at the FVPU.
- The PO in conjunction with Victim Services and the Spousal Abuse Program will ensure that the victim and other appropriate agencies and individuals are notified if required for safety. Generally, Victim Services is responsible for contact with the victim.
- Offenders who miss two unexcused treatment appointments will be breached within 5 working days.

6. Bail Investigation Report

When a request is received from the Court to complete and file a Bail Supervision Report the PO will address, at a minimum, the following:

- Whether there is a history of violence or abusive behavior, and if so details of the past abuse.
- Whether the complainant fears further violence if the accused should be released and, if so the basis for the fear.
- The complainant's opinion as to the likelihood of the accused obeying terms of release, in particular no contact provisions.

- Whether the accused has a drug or alcohol problem, or a history of mental illness.
- The PO will use the guidelines in R. v. Biele, Reasons for Judgement of the HONOURABLE MR. JUSTICE PETER MARTIN as a basis for all Bail Supervision Reports in DVTO.

7. Cooperation and Coordination

The PO will actively foster a cooperative working environment with all other participants in the Domestic Violence Treatment Options process.

- By treating all participants with respect and courtesy
- By sharing information
- By being available to provide training to other participants in the process and to receive training from other participants in the process.
- By attending and Participating in all relevant Domestic Violence Treatment Option initiatives

Family and Children Services Protocol

DOMESTIC VIOLENCE TREATMENT OPTION: PROTOCOL REGARDING INVOLVEMENT OF FAMILY & CHILDREN'S SERVICES BRANCH STAFF

Service Context:

Yukon's *Children's Act* prescribes the mandate of the Director of Family & Children's Services. The Director is required (at s. 106) to take reasonable steps to ensure the "safeguarding of children, to promote family conditions that lead to good parenting, and to provide care and custody or supervision for children in need of protection".

The Director of Family & Children's Services and her agents are required by Yukon law to investigate, and determine what action should be taken, regarding any report that a child may be in need of protection. (*Children's Act*, s. 117)

The *Children's Act*, at s. 116, defines when a child is in need of protection. This definition includes a child being in "probable danger of physical or psychological harm" and a child being physically abused in any way by a parent or other caregiver.

The Health Canada 1999 publication, "A Handbook for Health and Social Service Providers and Educators on Children Exposed to Woman Abuse/Family Violence", written by Marlies Suderman and Peter Jaffe, provides a useful summary of current thinking about the effects of family violence exposure on children. Children who are exposed to family violence, through the "experience of seeing, hearing, and observing the aftermath and living in fear" live in what Suderman and Jaffe call a "toxic environment in which children's wellbeing and development are severely compromised". Thus, the Family & Children's legislated mandate extends beyond those situations where children may be assaulted themselves in the home, and includes a requirement to assess the impact of exposure to family violence on children.

Recommended Procedures:

Any ~~case~~ case where children live in the home should be referred to F&CS, even when the children were not present at the time of the assault;

The referral should be made to the F&CS Intake and Assessment/or After-Hours Social Worker at 667-3002 (24 hour);

Once a referral has been made, the F&CS social work staff will work with the DVTO case management team to ensure a coordinated approach to the ongoing assessment;

F&CS staff will keep the case management team informed of the progress of the child protection investigation through the DVTO case management meetings;

Please refer to the attached "Interagency Agreement for the Investigation of Child Abuse", signed by the Yukon Departments of Education, Justice and Health & Social Services, RCMP and Justice Canada in October 1998. This agreement describes the agreed upon collaborative process for investigating possible child protection matters in the Yukon. Note that exposure to family violence is one of the possible child protection circumstances contemplated by this agreement;

Once a referral has been made to F&CS, any further information obtained regarding the risk to the child should be reported immediately to the F&CS social worker;

Yukon's *Children's Act* protects persons who report a belief that a child may be in need of protection (unless the report was done maliciously or falsely). (see s. 115)

INTER-AGENCY PROTOCOL FOR THE INVESTIGATION OF CHILD ABUSE

The Team Approach

A successful investigation of alleged child abuse requires cooperation between police and child protection agencies. Where an *Investigating Team* comprised of a Health and Social Services Child Protection Social Worker and an RCMP Investigator is formed in response to reports or disclosures of sexual or physical abuse or extreme neglect of a child, the following procedures will be applied.

I. RESPONSE TO INITIAL REPORT

1. Obtain identifying information.

Upon receipt by the Royal Canadian Mounted Police (RCMP) or Health and Social Services (H&SS) of a report of alleged child abuse, the recipient should attempt to obtain enough basic information to assess whether the child(ren) is in immediate danger. This information includes:

- the child's full name, address and age; present location and where they may be located;
- the full names and addresses of the parents; and where they may be located;
- the name and address and location of the alleged abuser, or any other information which might help identify or locate the person;
- the name, address and telephone number of the person reporting the incident(s);
- any other information which may be useful during the course of an interview.

2. Notify the other agency and form an Investigating Team to determine the need for a joint investigation.

The agency (RCMP or H&SS) receiving a report of alleged abuse will notify their counterpart, as soon as possible, in order to determine the need for a joint investigation and if so, organize an *Investigating Team*.

The *Investigating Team* should consist of a H&SS Child Protection Social Worker and an RCMP Investigator. The Team may advise consult with other professionals such as physicians, the Crown Attorney and Territorial Counsel.

3. Make contact as soon as possible and plan the investigation.

The *Investigating Team* should make contact as soon as possible to plan the investigation. The child should be interviewed as soon as practical depending on the immediate risk to the child, in accordance with agencies' policies and procedures.

II. INTERVIEW OF THE CHILD

1. Interview the child as a team.

The child should be interviewed jointly by the *Investigating Team* to eliminate repeat interviews, reduce trauma to the child, and avoid contamination of evidence. Either the H&SS Child Protection Social Worker or the RCMP Investigator may act as primary interviewer. Although the primary interviewer is normally selected at the initial planning meeting, this designation can be altered during the interview if the child demonstrates a particular rapport with the other interviewer.

2. Carry out the interview in a neutral setting.

Whenever possible, the interview should be conducted in a neutral setting, and not at the location of the alleged abuse. A variety of factors should be considered prior to selecting an interview site including:

- where and how the disclosure occurred;
- in cases of familial abuse, the reaction of the parent(s);
- the location of the incident(s);
- sibling involvement as victims or offenders;
- where the child will feel safest;
- where the interview can be conducted without interruption and in privacy;
- the availability of videotaping equipment;
- the whereabouts of the alleged abuser.

3. Obtain the basic information.

The following information should be obtained during the interview:

- what happened, when it happened, where, and how often it occurred (in detail);
- the date and time of the last occurrence;
- the likelihood of physical evidence;
- the names of anyone having knowledge of the abuse;
- the names of anyone involved in, or observing the abuse;
- if the child was threatened or bribed to take part in sexual activity or to keep the abuse secret;
- if the child has told the parent(s), and if not, why;
- the child's own assessment of the current situation and what should happen next;
- any other children who may be victims.

4. Maintain written records.

Records of the interview will be kept according to the policies and procedures of the RCMP and H&SS.

III AUDIO AND/OR VIDEOTAPING GUIDELINES

1. Audiotape and/or videotape the interviews.

Both initial and follow-up interviews with the victim and siblings conducted by the *Investigating Team* should be audiotaped and/or videotaped whenever possible. Either the H&SS Child Protection Social Worker or the RCMP Investigator can provide the equipment.

2. Arrange the seating & tape an introduction.

The room should be arranged in such a way that all participants are seated within the camera's angle of view. It is usually best to make the child aware that the interview is being taped and to explain the equipment. Each taping session should commence with an introduction by a team member specifying the date and the purpose of the interview (*before the child enters the room*).

3. Tape the entire interview.

The entire interview should be recorded without interruption, even if it is necessary for the child to take a break or leave the room. An *Investigating Team* member should explain the interruption.

4. Follow the basic equipment procedures.

Follow the basic procedures relating to equipment and tapes:

- ensure that the equipment is in place and prepared prior to the arrival of the child;
- wherever possible use videotaping equipment with a clock function which displays time and date; if such a clock function is unavailable, focus the camera on a wall clock at the beginning and end of the interview;
- make verbal reference to page numbers on visual aids such as booklets;
- use new audio/videotapes from sealed packages.

5. The RCMP are responsible for the tapes.

The RCMP are responsible for the audiotapes and videotapes from the time the tapes are opened prior to the interview until the conclusion of legal proceedings. The RCMP should maintain the tapes for use as exhibits. H&SS should be provided with certified copies if the tapes are required for child protection hearings. No copy of the audio or videotape should be provided to the defence counsel, except upon direction of the Crown in criminal code proceedings or Territorial Counsel in matters under the Children's Act.

The Crown and/or Territorial Counsel should advise the members of the *Investigating Team* as to whether or not a tape has been disclosed to the defence counsel and in what form.

6. Initial and secure booklets and drawings.

Booklets or drawings used during the interview should be initialed by both team members most likely to be called to give evidence. They should be dated, and left in the custody of the RCMP.

IV. MEDICAL EXAMINATION OF THE VICTIM

1. Arrange for medical examinations.

A medical examination should be arranged immediately by the H&SS Child Protection Social Worker in alleged cases of sexual and physical abuse. In cases of less serious physical abuse or neglect, or when the alleged abuse is not recent, a medical examination will be carried out at the discretion of the *Investigating Team* as soon as possible. Examinations may also be arranged for siblings in cases of physical or sexual abuse. If a decision is made not to proceed with the examination, the reasons for this should be documented on respective investigation files.

2. Try to gain parental consent.

If possible, parental consent for the examination should be obtained. If consent is refused, the H&SS Child Protection Social Worker may take the child into care before proceeding.

3. Request a physician from a prearranged list.

The *Investigating Team* will request that where possible, physicians experienced in abuse examinations should be selected from an up-to-date list (available in Out-Patients Department at the Whitehorse General Hospital). In communities where no physician is available, the *Investigating Team* may request that the Community Health Nurse perform the initial examination. The *Investigating Team* may ask the Community Health Nurse if a further examination by a physician is appropriate, or may request referral of the child directly to a physician.

4. Inform the physician or nurse of the purpose of the examination and arrange documentation.

The RCMP Investigator should advise the examiner that child abuse is under investigation, and that a written report documenting the condition of the child is required. Standardized forms are available to assist in this documentation.

The RCMP Investigator should obtain the examiners name, details of exactly what evidence of injury,

neglect or sexual abuse was found, and an opinion as to cause. Photographs should be taken and maintained as evidence by the RCMP in all cases of serious injury.

V. OTHER ACTIVITIES

The timing of the following activities will depend upon circumstances and the nature of the report.

1. Advise the parent(s) about the process.

In cases of alleged abuse by a parent, the non-accused parent should be advised:

- of the immediate steps that will be taken in the case;
- of what to expect during the investigation and subsequent criminal or child protection proceedings;
- how to obtain information about the progress of the case;
- where to obtain support services for themselves and the child(ren);
- the team member's names, telephone numbers, office addresses and the case numbers.

2. Interview the siblings immediately.

The *Investigating Team* should interview separately each of the victim's siblings as soon as possible. Consideration should be given to audio or video taping these interviews.

3. Determine if the siblings are at risk.

Where access to the siblings is denied, the H&SS Child Protection Social Worker should consider the possibility that these children are also at risk, and determine if it is appropriate to take them into care or to initiate child protection proceedings.

4. Interview any other children who may be possible victims.

VL INVESTIGATION ON SCHOOL PREMISES

1. Teachers and principals must report suspected abuse or disclosures.

If a teacher has reasonable grounds to believe that a child is in need of protection, a report must be made immediately by the teacher to the Principal and to Health and Social Services pursuant to the Yukon Education Act.

Where a disclosure is received by school personnel, H&SS should be contacted without first contacting the parents or guardians. Principals must immediately report suspicions that a child is in need of protection to H&SS and to the Superintendent or Education Director. **To the extent possible, every effort will be made to maintain the anonymity of the teacher reporting the alleged abuse and to keep the institutional source of the report confidential.**

2. Teachers should not investigate.

Teachers are not required to prove that abuse has taken place. The suspicion should be conveyed without attempting to conduct an investigative interview.

3. Contact the Principal to arrange access to the child at school.

Access to the child at the school facility will be provided to team members, and will be arranged by the School Principal or the Principal's designate. The Principal should be notified in advance of any visit. Interviews on the school premises should only be carried out if no suitable alternative location is available. *Investigating Team* members will take care to avoid disrupting the school and its students.

While the child is at school and until the *Investigating Team* arrives and the parent(s) are notified, the Principal, designate, or a support person should remain with the child to provide support and assistance.

4. Complete the interview and determine when to advise the parents.

The RCMP Investigator and the H&SS Child Protection Social Worker should arrive at the school together, identify themselves to the Principal or designate, interview the child, and whenever possible contact the parent(s) before the child is released from school.

It is the responsibility of the *Investigating Team* to determine when to advise the parent(s) of a report or disclosure.

5. Keep the school officials informed.

The *Investigating Team* will keep the Principal, Superintendent, or Education Director informed:

- when school personnel may resume contact with one or both parents;
- whether or not the child has been placed in the care of H&SS;
- whether or not child protection proceedings will commence;
- whether or not criminal charges have been laid;
- about the terms and conditions of any court orders regarding access to the child.

Copies of any court orders concerning access to the child while at school will be provided to the Principal in order to confirm the Principal's authority to restrict access.

6. Contact the appropriate Superintendent of Schools or Director if the accused is a school employee.

Where the investigation involves a school employee, the *Investigating Team* will contact the Superintendent, Education Director or designate as appropriate. Under no circumstances will any school official or teacher interview the alleged abuser about the alleged abuse.

VII. INTERVIEW OF THE ALLEGED OFFENDER

1. The RCMP Investigator will interview the alleged abuser as soon as possible.

The interview with the alleged abuser should be carried out in a manner prescribed by the RCMP. The H&SS Child Protection Social Worker should not hold discussions with the alleged abuser prior to the RCMP interview unless necessary in emergency situations, to determine the immediate safety of the child.

2. The RCMP Investigator should advise the H&SS Child Protection Social Worker of all information obtained.

The RCMP Investigator should disclose to the H&SS Child Protection Social Worker all relevant information obtained during the interview.

The RCMP Investigator should also provide particulars of an arrest, charges laid, and bail conditions as soon as possible, as it may have impact on the child protection matter.

3. Team meets to determine subsequent action.

Whenever it appears an offense has been committed, the *Investigating Team* should consult as soon as possible to determine what action will be taken under the Criminal Code or Children's Act.

VIII. SUPPORT FOR THE CHILD

1. Ensure the child receives support.

The H&SS Child Protection Social Worker will ensure that continuing support is provided to the child including:

- emotional support for the child and family;
- information and coordination services during the investigation and criminal and/or child welfare proceedings;
- development of an appropriate victim treatment plan;

- advice on counselling services.

2. Determine when H&SS Child Protection Social Worker's role ends.

In cases of non-familial abuse, where the parent(s) can provide for the safety and well-being of the child, the role of the Child Protection Social Worker normally ends with the investigation unless the parent(s) request on-going support and assistance.

IX. IMMEDIATE PROTECTION OF THE CHILD

1. Prevent unsupervised access to the child by an alleged abuser.

Upon confirmation of abuse, immediate action is required to ensure that the alleged abuser has no unsupervised access to the child. In cases of familial abuse, where the parent(s) [non-accused parent in parental abuse cases] is supportive of the child and capable of providing protection, the RCMP Investigator should endeavor to remove the alleged abuser from the home as well as to prevent access to the victim.

Other agencies may participate to ensure that access to the child by the alleged abuser is denied. Even in cases where the child has been temporarily removed from the home, efforts to remove the alleged abuser should continue so that the child can return.

2. Inform the child and parent(s) about court orders relating to access.

The RCMP Investigator should inform the child, the parent(s), and H&SS Child Protection Social Worker of court orders relating to access. Any violation should be reported to the RCMP. The H&SS Child Protection Social Worker should keep the child, parent(s) and the RCMP Investigator informed of any Child Protection orders affecting the family.

X. CHILD PROTECTION PROCEEDINGS

1. The H&SS Child Protection Social Worker determines whether to initiate child protection proceedings.

The decision to commence child protection proceedings is not dependent on whether or not criminal charges are to be laid. The decision whether to initiate child protection proceedings is made by the H&SS Child Protection Social Worker in consultation with Territorial Counsel.

A distinction should be made between the evidence required for child protection proceedings and for criminal proceedings.

2. H&SS Child Protection Social Worker requests a Child Advocate.

The H&SS Child Protection Social Worker may request that the court recommend the appointment of a Child Advocate to represent the child.

3. Keep each other informed about the results of proceedings on a timely basis.

Where Child Protection proceedings are initiated, the H&SS Child Protection Social Worker shall keep the RCMP Investigator informed of the results of the proceedings on an on-going basis. Where parallel child protection and criminal proceedings occur, the members of the *Investigating Team* should remain in close contact. Full disclosure between all team members is necessary.

4. Disposition in proceedings.

The *Investigating Team* will advise Territorial Counsel of the existence or availability of assessment reports or expert witnesses to demonstrate the effect of the abuse on the child and the family.

XI. CRIMINAL PROCEEDINGS

1. RCMP determines if charges should be laid.

The team approach to cases of child abuse should be maintained throughout criminal proceedings. The RCMP Investigator will determine if charges will be laid. In cases where there is doubt as to the

appropriateness of charges, the Investigator may consult with the Crown and the H&SS Child Protection Social Worker.

2. The Crown determines if a charge will be prosecuted.

The Crown will determine if a charge will be prosecuted, ensure that the child is prepared for court, and keep the RCMP advised of the progress of the case. The Crown should consider utilizing victim and witness programs.

3. The Crown will consult with the team members during sentencing submissions.

During plea discussions and sentencing submissions, the Crown may consult with the *Investigating Team*. Consideration should also be given to requesting Victim Impact Statements.

4. The Crown applies for a publicity ban.

The Crown Attorney should apply for a publicity ban during the first court appearance. In cases of familial abuse, any information identifying the alleged offender or victim will be withheld prior to a ban on publication from the court.

5. Be aware of treatment options.

Defence counsel, the Crown and probation officials should make themselves aware of treatment alternatives and programs. Whenever possible, the suggested disposition will include a plan for treatment.

6. The Investigating Team advises Crown lawyer about assessment reports and witnesses.

The *Investigating Team* should advise the lawyer acting for the Crown of the existence or availability of assessment reports or expert witnesses to show the effect of the offence on the child and the family.

7. Keep the Probation Officer informed.

Where a pre-sentence report has been ordered, the Probation Officer should be informed of any violations of court orders, particularly regarding access to the victim, by anyone with such information.

— End of Protocol —

INTER-AGENCY AGREEMENT
for the
THE INVESTIGATION OF CHILD ABUSE

I Purpose of the Agreement

Successful investigation into reports of child abuse requires collaborative action by the agencies responsible for the health, education, protection and support of children at risk and for the enforcement of the Criminal Code and the Children's Act. An integrated (team) approach, developed in recognition of the mandates of the agencies involved, significantly increases the effectiveness of the investigation.

Numerous advantages of the "team" approach can be cited:

- Immediate, sensitive and thorough investigations into reports and disclosures of child abuse can be assured.
- The most effective protection possible can be provided to the victims of child abuse.
- The number of interviews required can be reduced, thereby minimizing the trauma imposed upon the child-victim.
- Professionals in related disciplines gain an opportunity to consult, and to achieve an understanding and appreciation of differing attitudes and approaches.
- A consensus can be established regarding what constitutes an appropriate investigation, and a mutually acceptable investigative protocol can be established.
- Inter-agency working relationships can be improved and professional skills enhanced through constructive feedback and shared knowledge.
- Duplication of services can be reduced or eliminated.
- Community support resources available to the victims of abuse and their families can be better identified.

This agreement affirms the commitment of the Royal Canadian Mounted Police, the Department of Justice Canada and the Government of Yukon's departments of Health and Social Services, Education, and Justice to an integrated investigative response to reports and disclosures of child abuse.

II. Statement of Principles

- 1) Children are capable of credibly reporting events. All allegations of child abuse should be taken very seriously and be thoroughly investigated.
- 2) Every effort should be made to minimize the trauma imposed upon a child during an investigation and subsequent legal action.
- 3) Investigators must be sensitive to the age, developmental level and personality of the victims of child abuse.
- 4) Whenever a child has been physically or sexually abused, or neglected, a crime may have been committed and should be investigated and prosecuted as such.
- 5) Whenever a child has been physically or sexually abused or neglected, that child may be a child "in need of protection" under the Children's Act and as such, the circumstances must be investigated.
- 6) A successful response to reported incidents of child abuse requires collaborative and timely action by the various agencies and professionals with mandates to investigate, intervene and take legal or therapeutic action.
- 7) An effective investigative response requires the full cooperation, coordination and timely exchange of information between all organizations.
- 8) Designated personnel from each agency, trained and working together, are best equipped to carry out an investigation of reported child abuse.
- 9) Professionals and others working in the area of child abuse must be properly trained, and their skills must be kept up-to-date.
- 10) The courts can be an effective vehicle for the protection of child victims. Court action can act as a deterrent, and can ensure the offender's participation in appropriate treatment programs.
- 11) The primary responsibility for ensuring the safety and well being of a child lies with the child's parents or guardians. However, intervention is warranted when the parents are unable or unwilling to fulfill this function, or when assistance is requested by the family.

III. Definitions

Types of Abuse

Child Abuse: for the purpose of this Agreement and Protocol, child abuse includes both familial and non-familial physical, sexual and emotional abuse, as well as extreme neglect.

Physical Abuse: any act or omission which results in or may potentially result in injury to a child and which exceeds that which could be considered reasonable discipline. It includes, but is not restricted to, physical beating and failure to provide reasonable protection from physical harm.

Sexual Abuse: any sexual activity involving a child that could be a violation of the Criminal Code, the Young Offenders Act, or render a child in need of protection under the Children's Act. Sexual abuse may include intercourse, molestation, fondling, exhibitionism, sexual assault, harassment, and exploitation of a child for the purpose of pornography or prostitution.

Emotional Abuse: acts or omissions on the part of a parent or caregiver that results in or may potentially result in psychological harm to the child (e.g. witnessing family violence). The results of emotional abuse may include non-organic failure to thrive, developmental retardation, serious anxiety, depression or withdrawal, and serious behavioural disturbances.

Neglect: the failure of those responsible for the care of a child to provide proper or competent care, supervision or control resulting in failure to meet the physical, emotional or medical needs of the child to the extent that the child's health, development or safety is endangered.

Roles

Investigating Team: should consist of a Royal Canadian Mounted Police (RCMP) Investigator and a Health and Social Services (H&SS) Child Protection Social Worker and in some cases, representatives from other agencies.

RCMP Role: to enforce the laws regarding child abuse by leading the criminal investigation.

H&SS Role: to lead the child protection investigation; determine if there may be risk to the child; and provide and/or coordinate support, counselling and placement services as required.

Crown Role: to advise the Investigating Team during an investigation and to determine if a charge will be prosecuted.

Territorial Counsel Role: to advise the Investigating Team during an investigation and determine if a child may be in need of protection under the Children's Act.

IV. General Guidelines

1. a) Where the H&SS Child Protection Social Worker suspects or receives a report of child abuse, the Child Protection Social Worker will immediately notify the RCMP Investigator.

b) Where an RCMP Investigator suspects or receives a report of child abuse, the Investigator will immediately notify the H&SS Child Protection Social Worker.


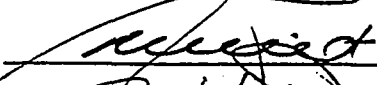
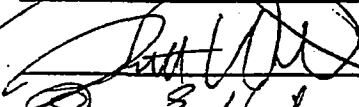
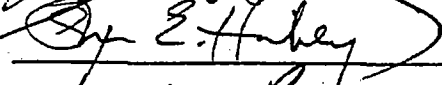
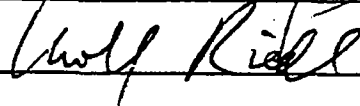
c) Where a teacher has reasonable grounds to believe that a child is in need of protection, a report must be made immediately by the teacher to the principal and Health and Social Services, pursuant to the Education Act. Where a disclosure is received by school personnel, Health and Social Services should be contacted without first contacting the parents or guardians. Principals must immediately report suspicions that child is in need of protection to H&SS and to the superintendent or education director.
2. An Investigation Team consisting of a H&SS Child Protection Social Worker and an RCMP Investigator should make contact as soon as possible after receipt of a report of child abuse to determine the need for a joint investigation and if so, to proceed according to the terms of the Protocol.
3. To ensure that a thorough investigation of a report of child abuse is carried out, all relevant information will be shared by the agencies and professionals involved, to the extent permitted and required by the provisions of the Access to Information and Protection of Privacy Act, Children's Act and any other relevant protocols or legislation.

In response to incidents reported by school based staff, the Director of Family and Children's Services will report back to the principal and/or staff person who made the report, on the outcome of the investigation.

4. Any signing agency may withdraw from this Agreement and attached Protocol upon fourteen (14) days written notice to the other participating agencies.
5. A review of the effectiveness of this protocol will be carried out by the undersigned three (3) months and six (6) months after initiation, and yearly thereafter.
6. Where a First Nation has assumed authority under self-government or the Umbrella Final Agreement for any legislation, program, or service affecting children and their families covered by this Protocol, the First Nation will be encouraged to become a signatory to this Agreement and attached Protocol.

V. Agreement

It is hereby agreed that the undersigned accept the principles and guidelines set out in this Agreement and Protocol.

Health and Social Services (Yukon)		Date 98/10/14
Royal Canadian Mounted Police		Date 98/10/14
Department of Justice (Canada)		Date Oct. 14 1998
Department of Justice (Yukon)		Date October 14/1998
Department of Education (Yukon)		Date Oct. 14. 98

Yukon Women's Directorate Protocol

DOMESTIC VIOLENCE TREATMENT OPTION

PROTOCOL: GOVERNMENT OF YUKON WOMEN'S DIRECTORATE

The Women's Directorate works with other government departments, other governments, and non-government organizations, to support the government's commitment to the legal, social, and economic equality of women.

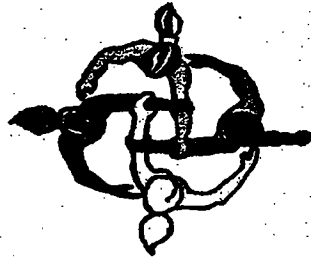
The Women's Directorate participates in the Domestic Violence Treatment Option steering committee, with its other partners.

The Directorate does not generally deliver services directly to individual women. However, on occasion, we are an initial point of contact for women (and sometimes men) who are seeking advice, guidance, and/or referrals to other agencies.

When contacted by an individual, Women's Directorate staff:

1. provide information on various programs and services offered in the Yukon, through a verbal explanation and through provision of pamphlets and other written material. This also includes a description of the Domestic Violence Treatment Option as well as the traditional court process.
2. describe the options available to the individual, usually focusing on the following:
 - a. the Women's Advocate service, at the Victoria Faulkner Women's Centre
 - b. the most accessible women's shelter (e.g., Kaushee's Place)
 - c. the Family Violence Prevention Unit, specifically Victim Services
 - d. the RCMP
3. upon request, make the initial contact with the service provider on the individual's behalf
4. in special circumstances, accompany the woman to provide additional support to her on her first visit to the service provider

Victoria Faulkner Women's
Centre
Letter of Understanding



VICTORIA FAULKNER WOMEN'S CENTRE
503 Hanson St. □ Whitehorse □ Yukon □ Canada □ Y1A 1Y9
Phone: 867-667-2693 □ Fax: 867-667-7004
vfwc@yt.sympatico.ca

DVTO Steering Committee

March 15, 2004

The Victoria Faulkner Women's Centre is pleased to participate cooperatively on a multidisciplinary DVTO Steering Committee to ensure the DVTO goals of holding the offender accountable and respecting input from the victim are met. The Women's Centre has a Women's Advocate who supports women's options and choices regarding legal, financial, housing and social issues. We see many women who are vulnerable or in a violent relationship with their spouse or partner. We are pleased to provide a safe and welcoming place for these women. This service has been highly accessed and continues to be in high demand. Several hundred women have accessed this service since it began.

Victoria Faulkner Women's Centre is pleased to bring its knowledge of women's needs to help analyze and evaluate government legislation. The Domestic Violence Treatment Options Court can be an effective alternative to the formal court process if it is successful in providing offenders with treatment they need to live without violence in their lives. It is important for women to have the opportunity to validate the experience of violence in their lives. Women need the opportunity to speak (directly or indirectly) to the violent nature of their daily experience living with the offender and have their experiences taken into account as offenders proceed through treatment. Women's voices must be heard throughout the DVTO process. Aboriginal women should be invited to help in the work of ensuring women's equality rights are respected in the DVTO process.

By participating on the Domestic Violence Treatment Options Steering Committee, the Women's Centre is committed to ensure this court process addresses the concerns of the victim and holds the offender responsible for his violent actions. It is important for the DVTO process to concur with the objectives of restorative justice. Any restorative justice process like the DVTO court must first and foremost ensure safety for women and children, view the crime as a violation of the victim and the community, involve active

participation of offenders, victims and the community, and allow for the victims to have a central role in the process. Thank you for the continued opportunity to participate in this important initiative.

Sincerely,

A handwritten signature in cursive script that reads "Liz Candline". The signature is written in black ink and is positioned above the typed name.

Liz Candline

Women's Advocate

On behalf of the Victoria Faulkner Women's Centre

Kaushees' Place
Letter of Understanding

October 19, 2001

RE: Domestic Violence Treatment Option Court

As requested by the Chair of the Domestic Violence Treatment Option Court Steering Committee, this letter is to confirm the ongoing participation of Yukon Women's Transition Home (Kaushee's Place) within the DVTO Committee.

As you are undoubtedly aware, Yukon Women's Transition Home's primary mandate is to provide shelter and support to women and children living under domestic violence. We are also dedicated to working towards systemic and social change by helping to create a more appropriate and effective multi-agency response to domestic violence. To this end, our participation on the DVTO Committee meshes with several of the Committee's operating principles:

- To be a vehicle for recognizing the needs and issues and safety concerns of victims of violence
- To ensure that domestic violence initiatives are properly evaluated and publicized
- To stimulate public awareness by providing information

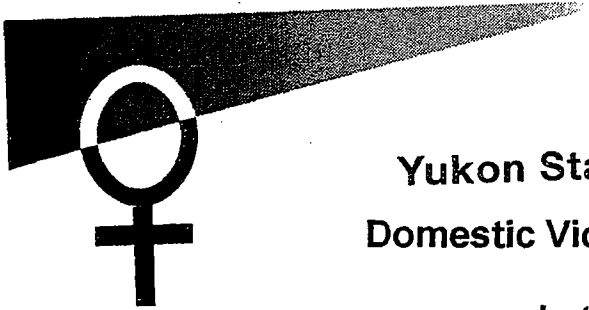
It has been recognized within the DVTO Committee that participating stakeholders represent different mandates and interests. While we may not consistently agree with the dominant views represented within the Committee's discussions, our continued participation within the process symbolizes our willingness to "*maintain open dialogue with community agencies, government departments and courts in order to build mutual understanding*" as reflected in the DVTO Committee's operating principles.

Finally, I would like to underline that our organization is strongly committed to building mutual understanding within the DVTO Committee process. However, it should be understood that our participation within the Committee cannot be at the sacrifice of our organization's autonomy to monitor and provide independent comment upon issues which may at times overlap with those being discussed within the DVTO Committee -- or to respond to issues pertaining to domestic violence in general.

Sincerely,

Barb Powick
Executive Director

Yukon Status of Women
Council
Letter of Understanding



Yukon Status of Women Council
Domestic Violence Treatment Option Court

Letter of Understanding

March 4, 2004

Section 15 of the Canadian Charter of Rights and Freedoms, entrenched in the Canadian constitution in 1981, provides equality rights for women as follows:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

The Yukon Status of Women Council is a feminist advocacy organization that works to achieve legislative change in order to eliminate discrimination against women. It fosters public knowledge of the rights and status of women and facilitates communication between individuals and groups concerned about the status of women.

In recent years, violence against women in intimate relationships has been recognized as a criminal behaviour, and the courts no longer view violent criminal incidents in familial relationships as a private family matter. For women to fully achieve equal protection and equal benefit of the law without discrimination, women's experience of the criminal justice system requires some improvement.

The Domestic Violence Treatment Option Court is an opportunity to provide a therapeutic program for offenders to enable them to live without violence. Some women are committed to an ongoing relationship with their partner, they may have children together, be financially dependent on their partner, or fear retaliation if they leave. For these and other reasons, some women are reluctant to report violence, or to appear as witnesses in Court.

Women who have been victims of violence want the violence to stop, and want the offender to take responsibility for his violent actions. Many women are hopeful that the relationship can continue once treatment is completed. If women want increased contact between the parties and believe that it is safe, the Domestic Violence Treatment Option Court can be successful in allowing increased contact between the parties as therapeutic treatment results in changed behaviours.

Professionals in the criminal justice system have a responsibility to recognize the safety concerns of women who are victims of violence, to increase public awareness about the criminal justice system's response to spousal assault incidents, and to ensure women are treated respectfully and accorded their full human rights to equality in their interactions with the legal system.

The Domestic Violence Treatment Option Court's goals are to deal more quickly with domestic violence matters, hold the offender accountable through close Court supervision during the therapeutic process of offender treatment, give more control and responsibility over the process to victims, encourage more victims of domestic violence to seek protection and help from the criminal justice system, and reduce the number of victims who abandon or withdraw from domestic violence cases in the criminal justice system, and make our communities safer.

The Yukon Status of Women supports these goals. The Council recognizes the benefits of a multi-agency steering committee to guide the DVTO process in a direction that meets its goals effectively. We are willing to participate in this forum in a spirit of cooperation with people representing organizations with different mandates and interests.

The Yukon Status of Women Council see a need to include aboriginal women's voices in the work of the steering committee. The Council recommends regular quarterly meetings of an expanded and diverse committee to play a meaningful role in the development and ongoing assessment of this Court.

Signature
- Creation
Nato

