Violence Knows No Boundaries

DIVERSE CULTURAL PERSPECTIVES, LEGAL RESOURCES AND SAFETY INFORMATION ON DOMESTIC VIOLENCE FOR SERVICE PROVIDERS

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This resource guide provides information about Canadian laws and justice processes, as well as ethnocultural information as they pertain to domestic violence. Legal information is not the same as legal advice, as to the application of law to an individual's specific circumstances. We cannot offer legal advice in response to specific problems. It is strongly recommended that you consult a lawyer if you need such help.
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About this guide

Ethnoculturally diverse and racial minority women and their families experience personal, cultural and systemic barriers in accessing resources and services that can help them deal with abuse and violence. Service providers, at times, lack cultural competency and the ability to respond in a culturally appropriate manner to this population of clients and their families. Additionally, many ethnoculturally diverse communities linkages with ‘mainstream’ services; lack knowledge as to how to access various resources; lack knowledge on Canadian values, practices and laws related to domestic violence; or lack the capacity to address domestic violence issues within their own communities.

Purpose

The intent of this guide is to provide viewpoints from diverse perspectives in relation to domestic violence and abuse, to be an additional resource for service providers when working with clients.

Limitations

This guide does not contain exhaustive information about the law as it relates to domestic violence and/or immigration. The materials in the guide are not intended as a substitute for legal advice. For that reason, and because laws are subject to change, an individual who needs advice about his/her particular situation is advised to consult a lawyer. Relying on this manual alone to the exclusion of other resources is unwise, as each case is unique and the course of action or legal advice depends upon the specific circumstances of each case.

Disclaimer:

This guide is NOT a research document. The positions expressed by interviewees in the cultural profiles are strictly personal perspectives and/or experiences of the interviewees. Information gathered from interviews was edited for length and clarity of meaning. Within the contents of interview information, there are positions and statements that the writers, editors and partnering agencies and organizations of this document do not agree with or condone.

Terms used in the manual

The term “victim” will be used to refer to those individuals who have experienced some form of family violence. This term does not assume that those who have been affected by domestic violence as being passive or weak. The authors acknowledge that people do, in fact, adapt and move on with their lives.

“Spouse” or “partner” in this guide is meant to include “boyfriend/girlfriend”, “common-law”, “married” relationships, and “same-sex relationships”. The term “caregiver” is meant to describe anyone who provides care (paid or unpaid) or the basic necessities or services that are essential for maintaining physical and mental health.

“Abusive person” or “abuser” will be used to refer to the individual who is perpetrating violence or abuse on another person(s) in all sections of the manual except in the section addressing the criminal justice system. Then, the term perpetrator is used.
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PART I:
Domestic Violence Resource Manual
1.0 INTRODUCTION

Domestic violence is a pervasive social issue that crosses all borders, including age, social, cultural, and economic boundaries. Statistics indicate that:

- In Alberta in 2005, over 6,000 spousal abuse incidents were reported to police and over 4,000 charges were laid. Fourteen homicides have been attributed to spousal abuse. (Alberta Solicitor General, 2005)
- In Alberta in 2005, women’s shelters assisted over 81,700 crisis line callers. Over 6,400 women and 5,500 children were sheltered. Over 6,200 women and 4,800 children were turned away. (ACWS, 2006)
- Between 1975 and 2004 there were 2,178 victims of spousal homicide in Canada, (Statistics Canada, 2006);
- 6 out of 10 victims who reported being sexually assaulted were under 17. (Statistics Canada, 2005, "Children and Youth as Victims of Crime", The Daily, 20 April)
- Among substantiated sexual abuse cases reported to Child Welfare Authorities in Canada, non-parental relatives represented the largest group of alleged perpetrators (28%), followed by biological fathers (15%), step-fathers (9%), and biological mothers (5%) (Trocme, MacLaurin, & Fallon, et al. 2001). 1
- 29% of ever-married women have experienced domestic assault (Statistics Canada, 1996);
- It is estimated that individuals with disabilities are 1.5 times at a greater risk for abuse than individuals without disabilities (Sobsey and Randall, 1997);
- 4% of the senior population has experienced elder abuse (Podnieks, 1990). This figure may be understated, as elder abuse has only recently come to public attention and victims of abuse are reluctant to disclose;
- Spousal violence was twice as common among homosexual couples compared with heterosexual couples: 15% and 7% respectively in 2004 (Statistics Canada, 2006).
- 5% of university women surveyed indicated they have experienced at least one physical assault by a male dating partner; and 27.8% of the women surveyed reported at least one incident of sexual abuse in the 12 months preceding the study (Kelly and DeKeseredy, 1993).

1.1 Defining Domestic Violence

Domestic violence, also known as wife battering, spousal abuse, intimate partner violence, and family violence is the attempt, act or intent of someone within a relationship, where the relationship is characterized by intimacy, dependency or trust, to intimidate either by threat or by the use of physical force on another person or property. The purpose of the abuse is to control and/or exploit through neglect, intimidation, inducement of fear, or by inflicting pain. Abusive behaviour can take many forms including physical abuse, emotional/verbal/psychological abuse, spiritual abuse, sexual abuse, financial or economic abuse, neglect, and isolation. All forms of

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abusive behaviour are ways in which one human being is trying to have control and/or exploit or have power over another².

Physical abuse, legally known as assault, is any aggressive behaviour directed toward another's body, such as hitting, pushing, pinching, squeezing, shaking, grabbing, biting, slapping, punching, kicking, or choking. It also includes throwing objects or using a weapon.

Emotional, verbal, or psychological abuse is the infliction of emotional pain and suffering by a person or persons doing things to control or degrade another. Examples include continual verbal attacks on self-esteem; repeated accusations of unfaithfulness or other faults; threats of suicide; control over friends and family, money, and freedom; and threats of harm to others. Screaming at or ignoring a person, threatening deportation, stalking and reading another person’s mail are also included in this category.

According to Public Health Agency of Canada, emotional abuse, like other forms of domestic violence, is based on power and control. Public Health Agency of Canada outlines the following forms of emotional abuse:

Rejecting – refusing to acknowledge a person’s presence, value or worth; communicating to a person that she or he is useless or inferior; devaluing her or his thoughts and feelings.

Degrad ing – insulting, ridiculing, name calling, imitating and infantilizing, and behaviour which diminishes the identity, dignity and self-worth of the person. Examples include yelling, swearing, publicly humiliating or labelling a person as stupid; mimicking a person’s disability; treating a senior as if she or he cannot make decisions.

Terrorizing – inducing terror or extreme fear in a person; coercing by intimidation; placing or threatening to place a person in an unfit or dangerous environment; physically hurting or killing a person or pets the victim cares about; threatening to destroy the victim’s possessions; threatening to have a person deported or put in an institution; stalking.

Isolating – physically confining; restricting normal contact with others; limiting freedom within the victim’s environment. Examples include keeping a senior from participating in decisions about her or his own life; locking a child in a closet or room alone; refusing a female partner or a senior access to her or his own money and financial affairs; withholding contact with grandchildren; depriving a person of mobility aids or transportation.

Corrupting and Exploiting – socializing a person into accepting ideas or behaviour that are inconsistent with legal standards; using a person for advantage or profit; training a child to serve the interests of the abuser and not of the child.

Examples include child sexual abuse; permitting a child to use alcohol or drugs; enticing a person into the sex trade.

**Denying Emotional Responsiveness** – failing to provide care in a sensitive and responsive manner; being detached and uninvolved; interacting only when necessary; ignoring a person’s mental health needs. Examples include ignoring a child’s attempt to interact; failing to show affection, caring or love for a child; treating a senior who lives in an institution as though she or he is an object or burden.

*Emotional abuse can also be a result of neglect, when the abuser purposely denies or refuses to procure food and other necessities, including medication, even when he or she has sufficient financial resources to do so.*

It should be noted that emotional abuse may occur independently or as part of other forms of abuse.

**Sexual abuse** describes any sexual activity performed against the wishes and consent of the victim. It includes being forced to participate in unwanted sex and to participate in unpleasant, violent or frightening sexual acts. Other forms of sexual abuse can include being forced to have sex with others, being forced to watch the performance of others, or being criticized for sexual performance.

**Financial or material abuse** - Financial or material abuse includes the withholding of finances through deceit or theft, the misappropriation or misuse of funds or property, forced sale of home possessions, forced change of will, or abuse of trusteeship or power of attorney.

**Religious/Spiritual abuse** involves preventing a person from engaging in their spiritual or religious practices, using a person’s spiritual beliefs to manipulate, dominate or control them, or making fun of someone’s belief.

**Neglect** is a form of abuse directed at those who are dependent upon others for personal care, such as seniors, persons with disabilities/illnesses, and children. Neglect includes withholding medication or food, and not assisting with matters of hygiene, or other basic daily needs.

- **Active neglect** is the intentional withholding of clothing, food, personal or health care, and leaving the older person in an unsafe place or in isolation.
- **Passive neglect** occurs when the caregiver unintentionally does not provide necessities because of lack of information, skill or interest. This includes self-neglect which is not a life long pattern and reflects a change in cognition, but is a change from that person’s behaviour from previous experience.

### 1.2 Cycle of Violence

Many victims of domestic violence find that the abuse happens in a cycle that can repeat itself many times; it rarely happens only once. The cycle consists of three stages called the Tension Building stage, the Explosion or Abusive stage and the Honeymoon or Reconciliation stage. The time length of each stage varies between abusive relationships, and even within one relationship.
The cycle of violence can help to understand why a victim stays in an abusive relationship. With each repeated cycle, the victim’s self esteem deteriorates. The victim blames herself for the abuse and becomes increasingly isolated, making it more difficult for her to trust others and seek help.

**Cycle of Abuse**

![Cycle of Abuse Diagram]

1. **Tension Building**
   - Abuser gets angry
   - Problems about job, finances, children, etc. can increase tension
   - Abuse may begin
   - Breakdown of communication
   - Victim feels the need to keep the abuser calm

2. **Explosion / Abuse**
   - Abuse happens
   - Physical, mental, emotional and sexual abuse
   - Abuser wants to teach victim a “lesson”

3. **Honeymoon / Reconciliation**
   - Abuser apologizes, promises it will not happen again
   - Abuser might blame victim for abuse
   - Abuser gives victim gifts
   - Victim has hope it won’t happen again.

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Crimes of violence and abuse are also crimes of power and control. The wheel below illustrates how this power and control often manifests, with particular reference to immigrant women.

This version of the Power & Control Wheel was adopted by the Foundation for the Prevention of Family Violence, San Francisco, with permission from the Domestic Abuse Intervention Project, Duluth, Minnesota. It examines some of the different forms in which women who are immigrants can be abused because they are immigrants. This English wheel was translated from the Spanish by Canetiq.

5 Source: Domestic Abuse Intervention Project. Hotpeachpages. 30 April 2008
<http://www.hotpeachpages.net/images/immigrantpower.html>
### 1.3 How Domestic Violence Impacts Women and Children

Not only are they most often the victims of a battering incident, women and children also experience a number of other physical and emotional effects as a result. These effects are often present for many years after the abuse has occurred.

**Impact on Women**

There are both physical and emotional effects that women may experience in an abusive relationship. Along with physical evidence on the body, women may experience severe stress and trauma that can manifest itself in other future physiological and psychological problems.

- They may complain of somatic complaints, such as headaches or stomach aches, to their family physician.
- They experience twice as many miscarriages.
- They abuse substances as a mean of coping.
- Symptoms such as anxiety, nervousness, irritability, insomnia, eating disorders, poor self-esteem, depression and suicidal thoughts are common.
- Due to previous financial dependence on their husbands, women and any dependents including children may experience poverty and homelessness.
- Women may experience isolation from their families and friends, and loss of trust in others, including future possibilities of relationships.
- The loss of sense of self and belief in stereotypes, such as “I am going crazy,” are not uncommon.

**Impact on Children**

Domestic violence impacts the lives of children, whether they are direct victims of abuse or are exposed to abuse of one of their parents. Children may not have the emotional support and protection from both parents and may feel helpless. Confusion about why this is happening to their family may lead children to blame themselves; it leaves them at risk of developing short-term and long-term problems. Some common characteristics found among children experiencing or being exposed to abuse are:

- Physical complaints, such as stomach aches and headaches, troubles sleeping, nightmares, bedwetting, intestinal problems;
- Irritability, nervousness, anxiety, depression, low self-esteem, suicidal thoughts, eating disorders, insecurity;
- Changes in typical behaviours and attitudes, such as withdrawal from friends and usual school activities previously enjoyed;
- Cognitive problems, such as significant decreases in school performance, difficulties concentrating, decrease in attention span;
- Isolation and lack of social skills;
- Behavioural problems, such as running away from home, substance abuse, using violence as a means of control or to solve problems and conflicts, criminal activities;

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Separation anxiety, fear of being abandoned, inability to trust;
Children sometimes assume the parental role of other siblings or even their parents.

Children who have experienced violence in the home may come to believe that violence towards women is acceptable and is an acceptable means of punishment or discipline. They may believe that they should not talk about violence and participate in minimizing the effects of the situation they live in.

**Why Women Stay in Abusive Relationships**

There are a number of factors that may influence a woman’s decision to stay in an abusive relationship:

- **Financial dependency**—unsure of how she will support herself or the children;
- **Pressure to keep the family together**—often by family for religious or cultural reasons, or for the sake of the children;
- **Optimism**—things will change and improve, it won’t happen again (also called “fantasy of change”);
- **Denial**—the situation could be worse or is not really abnormal to her (particularly if the woman was raised in an abusive household where it was considered acceptable and normal);
- **Role responsibility**—many people believe it is the wife’s responsibility to keep the home in proper order and the marriage together. She may feel she has failed to meet her husband’s needs;
- **Identity**—a woman may feel her life is not whole without a man;
- **Loyalty**—many women do not wish the relationship to end, only for the violence to stop;
- **Fear of husband’s suicide**—he has threatened to kill himself if she leaves him;
- **Fear for safety**—lack of safe places to stay, especially if the man has threatened to harm or kill her, the children, any pets, or those who try to help them.

For immigrant and refugee women, additional factors may be important:

- **Shame and stigmatization**—concern for image and belonging within the community;
- **Language barriers**—she is unable to express herself to service providers or seek help;
- **Deportation threats**—she is unaware of her immigration status and believes she will be deported if he is her sponsor.

**1.4 Trauma and Domestic Violence – Post Traumatic Stress Disorder**

While the majority of visible wounds from physical abuse fade away over time, the mental and psychological wounds often remain. The effects of trauma can manifest themselves in both psychological and physiological forms. Trauma is injury to an individual’s psychological, spiritual and mental capacities. Symptoms such as trouble sleeping, helplessness and hopelessness, depression, insecurity about oneself and self-image, flashbacks, phobias and memory loss, are all commonly seen in individuals experiencing trauma as a result of domestic violence and abuse. Some individuals may be diagnosed with Post Traumatic Stress Disorder (PTSD). PTSD

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is the response exhibited by individuals suffering from serious trauma and heightened levels of stress as a result of trauma.

The DSM IV classifies PTSD as a mental disorder. This model includes a list of criteria that must be met in order for an individual to be diagnosed with PTSD. The help of a professional such as a psychiatrist or doctor in this field is recommended.

### 1.5 Dating Violence

Dating violence is the physical, psychological or sexual abuse of one partner by the other in a dating relationship where the couple is not living together. In most cases, the abused partner is female. Dating violence can occur at any age, although teens and women in their early twenties are most at risk. Dating violence occurs between heterosexual or same-sex couples. The dynamics and patterns of dating violence are similar to domestic violence in adult relationships. **Power** and **control** are the central issues in any incidence of domestic violence.

Adolescent dating violence can be different from adult violence in a number of ways, including:

- Social demands of a young woman often “require” that she has a boyfriend. Many teens believe that an abusive boyfriend is better than no boyfriend.
- Gender role definitions are often extreme and stereotyped. Adolescent girls are expected to give up their talents, activities, and other relationships in order to prioritize their relationships with their boyfriends. Adolescent boys are expected to be sexually dominant and aggressive, making all the decisions in the relationship.
- Youth are generally inexperienced in intimate relationships, therefore may have difficulty managing the complexity of feelings, decisions, and disagreements that arise. They often mistake jealousy and possessiveness for love.
- As teens struggle for independence from their parents and family, they may not ask for and receive support.
- Adults do not always take adolescents seriously – assuming that they are overreacting, dramatic, or going through a stage in their life. Parents may assume that the violence in relationships looks less serious than it really is and expect that it is quite easy for teens to end relationships.

Dating violence is more likely to occur when alcohol or drugs are involved. This often leads people to blame alcohol or drugs for the problem. Alcohol and drug abuse do not cause violence, however they can be factors in dating violence. The consumption of drugs or alcohol, when in a state of depression or anger, can increase the risk of violence through lowering a person’s inhibitions.

Pregnant youth experience formidable barriers when involved in violent dating relationships. Similar to adult women, the risk of violence to teens is higher when they are pregnant. Pregnant teens have fewer resources than adults do. They may not want to seek help out of fear of being judged. Pregnancy may actually be a sign of an abusive dating relationship, particularly when a pregnancy occurs early in the relationship.

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**Dating Violence in Ethno-Cultural Communities**

Young women from cultures in which dating and sexuality are prohibited and shameful are still at risk of dating violence. They may be unable to seek help from their family or community for fear of being judged and blamed for ruining the family honor.

**Same-Sex Dating Violence**

Dating violence can occur in same-sex relationships. Individuals in same-sex relationships may be fearful of revealing the abuse because they will have to “out” themselves and may be fearful of homophobic reactions from family and friends. This can create a major barrier for many youth involved in violent dating relationships.

Being aware of the early warning signs of abuse is critical in preventing dating violence. The following early warning signs can point to the possibility of a violent dating relationship.

One partner:

- Acting jealous or possessive;
- Refusing to take “no” for an answer;
- Controlling contact with friends, family, and outside activities;
- Putting down ideas, appearance, friends, and family;
- Making all decisions;
- Forcing traditional views of male/female relationships;
- Driving fast or doing other scary things;
- Expressing fear or anxiety as anger;
- Making accusations of lying;
- Refusing to discuss feelings and then blowing up;
- Becoming angry or violent after drinking or using drugs;
- Participating in behaviour that is threatening, manipulating or controlling, embarrassing, or blaming.

**1.6 Abuse of Older Persons**

The abuse of older persons (often referred to as “elder” or “senior” abuse) is any action or inaction by others that jeopardizes the health or well-being of an older person. This includes the denial of an older person’s fundamental rights according to the Charter of Rights and Freedom and the United Nations Declaration of Human Rights. It may include the infliction of physical injury, restraint, financial exploitation, threats, insults or humiliation, forced isolation (physical or social), or forced change in living arrangements. It may also include neglect, that is, the refusal or failure to care for the older person, whether intentional or unintentional. This could include abandonment, withholding or not providing food, health care, companionship or assistance. Elder abuse constitutes an abuse of power and is a violation of trust.

Barriers to Disclosure

Older persons often find it difficult to admit to experiencing abuse, especially when the perpetrator is a family member. Elderly persons generally do not report abuse for the following reasons:

1. **Fear of loss of caregiver/family**: Elderly persons may fear that the abuser will desert them and may turn other members of the family against them.

2. **Anxiety about result of reporting**: Older persons who are abused are often told by the abuser of serious consequence to themselves or their loved ones if they disclose the abuse. The consequences may or may not be real, but the fear can be enough to keep the senior quiet.

3. **Lack of or unclear understanding**: Some elderly persons may have a form of dementia or other cognitive challenges that prevent them from communicating the abusive behaviours. Abusers often tell the senior that people will blame them for the abuse. Behaviours that are considered abusive today may not have been considered abusive when the older person was growing up. Because of these past experiences and beliefs, a senior may not recognize that he/she is being abused.

4. **Parental roles**: The older person has been a parent and often blames him/herself for the behaviour of the children, even when the children are adults. The elderly person may try to protect the abuser, thinking that a change of behaviour can be effected from a parental role position.

5. **Family honor**: Older persons fear that making abuse known will reflect poorly on their family. They want the family to be viewed by society in a positive light.

6. **Fear of exposure**: Elderly persons fear that if they reveal abuse, all of the family secrets will be exposed. This fear is enhanced by the abuser who often tells the older person that everyone will know that the senior is a “bad” person.

7. **Independence**: Older persons may be dependent upon the abuser for many things, e.g. companionship or physical assistance. An elderly person’s fear may be that if the abuse is revealed, support will be lost and will later create a loss of independence.

8. **Family breakdown is unacceptable**: The family’s unity is very important to many seniors. The possibility that the family may break up is intolerable to the older person. Many elderly persons will accept the abuse rather than accept the possibility of the family falling apart.

9. **Lack of self-esteem and assertiveness**: An older person who has experienced abuse as a child or within marriage may lack self-esteem or assertiveness. In order to get what they want, abusers attack the self-esteem of elderly persons. Abusers also punish older persons if they show confidence. In order to maintain family harmony, elderly persons will surrender to the abusers.
10. Believe “I deserve what I get”. When the older person was growing up, the philosophy may have been “I deserve what I get.” This may have been a belief for many years and now affects life through silence about the abuse.

1.7 Raising the Issue

It is not easy for a service provider to breach the subject of domestic violence with a client. The following can be integrated into standard practice that may lead to client disclosures:

- Ensure client privacy. Family members or partner should not be present;
- Remain non-judgmental;
- State that the following questions are asked routinely:
  - Ask whether they have been physically hurt in any way in a relationship and whether they are in such a relationship now;
  - Ask if they fear for their safety;
  - Ask how a disagreement among family members is handled;
  - Ask if their partner has ever forced them to participate in activities, including sex, which hurt them, made them feel uncomfortable, or they did not consent to;
  - If bruising is evident, ask them what happened;
  - Ask whether their partner exhibits jealousy or accuses them of being unfaithful;
  - Inquire about their social life and whether they have contact with their family.

Other resources are available to assist service providers in approaching clients they suspect are being abused. There is no legal duty to report a suspected case of abuse of an adult. Disclosure may not take place immediately. However, raising the issue, building trust, and welcoming further contact may plant a seed for disclosure at a later time.

Self Care for Service Providers

Working with victims of domestic violence or those impacted by it may result in vicarious trauma or compassion fatigue for service providers. Vicarious trauma can result in social isolation including from loved ones, nightmares, and despair and hopelessness to name a few. It is important to be aware of such symptoms and ensure one’s self-care, to prevent burnout.

Service providers should also be aware of steps that can be taken to ensure their safety when working with clients affected by domestic violence and abuse. Abusers may threaten the safety of those individuals who offer to assist the victim. Individual agencies will have various policies around employee safety, and it is important for workers to familiarize themselves with their agency’s policies.

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2.0 RISK ASSESSMENT AND SAFETY PLANNING

2.1 Risk Assessment

If an individual reveals that he/she is experiencing abuse, it is important to help him/her in deciding the level of risk in his/her case. Existing research reveals there is high risk of serious injury or death of the abused partner and his/her children when:

1. The abusive person has made repeated threats of homicide or suicide. The batterer who has threatened to kill him/herself, his/her partner, the children, or his/her relatives must be considered extremely dangerous.

2. Obsession about partner and family. An abusive person who is obsessed with his/her partner, who idolizes him/her and feels that he/she cannot live without him/her or believes he/she is entitled to him/her, is more likely to be life endangering.

3. Drug or alcohol use. Although drug or alcohol use does not cause abuse, the consumption of drugs or alcohol, when in a state of depression or anger, can increase the risk of violence through lowering a person’s inhibitions.

4. Pet abuse. Those abusive persons who assault and mutilate pets are more likely to kill or maim family members.

5. The partners have recently separated. Recent separation (even the belief of an abusive partner that, his/her partner will leave) is a high risk factor. Murder of a female partner is most likely to occur during a marital separation or divorce. The common belief that an abused woman will be out of danger if she leaves a relationship is a myth.

6. Other risk factors may include:
   - police have been called to the home one or more times;
   - female victim is pregnant;
   - abusive person has a history of assault - either intimate partners, strangers, friends or acquaintances; and
   - abusive person has violated “no contact” conditions.

Risk evaluations are not a guarantee and there is no fail proof measure of who will kill. An evaluation must be made every time the police, courts, shelter workers, hospital workers, or other front-line workers deal with the abusive person or the victim.

The SARA: Spousal Assault Risk Assessment Guide (Kropp, Hart, Webster & Eaves, 1994; Kropp et al., 2000) has also been created to enhance professional judgments regarding the risk in males of being a threat to the safety of their family and spouses. This publication is copyrighted and sold by the Multi Health System, Toronto.

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14 The following information about risk assessment has been adapted from the document, Desperately Seeking Certainty: Assessing and Reducing the Risk of Harm for Women Who Are Abused. Desperately Seeking Certainty: Assessing and Reducing the Risk of Harm for Women Who Are Abused is a discussion paper prepared for the Alberta Advisory Council on Women’s Issues by Linda MacLeod, October 1995.
A free checklist that uses information from the victim and is applied solely to adult males to predict future incidences of domestic violence is available. Access to the Danger Assessment survey by Jacquelyn C. Campbell is available online at: Http://www.dangerassessment.com/WebApplication1/pages/da/

**Persons with Disabilities**

Persons with disabilities are often at greater risk of violence due to dependence on caregivers, isolation, and difficulties with communication. Their exposure to violence increases with the amount of dependence and disability. Physical disability can make it difficult for a person to protect himself or herself or to escape from abuse, while communication problems can leave a person unable to call for help or tell someone about their situation.

**Domestic Violence in Rural Areas**

Being geographically isolated by living in rural areas can increase the risk of violence. There are fewer services in such areas. There are few or no neighbours to provide support or to hear the abuse occurring and call police. Even if the victim or a neighbour does call the police, response times in isolated areas naturally tend to be longer. Often one or two police officers are responsible for a large geographic area with low population density. Many women also prefer not to report abuse due to a fear that members of smaller communities will hear about it.

**Culturally Isolated Communities**

The impact of cultural isolation is not always as well recognized, even though cultural isolation can be similar to living in an isolated area. Cultural isolation can be a risk factor of increased risk of violence whether one is geographically isolated or not. Women, children, and men who are members of a minority cultural, language, or religious group may have few or no friends or relatives near them. They may be ignored or rejected by their neighbours because of ethnocultural differences. They may not speak or read the language spoken by most people in their community. All these factors increase their isolation and may keep them unfamiliar with the services and options available to them.

**Limitations to Risk Assessment Tools**

There are limitations in risk assessment tools. These provisos must be taken into account before utilizing risk assessment tools as part of an intervention strategy in domestic violence cases:

- Risk assessment should not be considered as a “recipe” or a quick answer. Service providers should not totally rely on risk assessment instruments to make good judgments about danger and safety.
- Risk assessment instruments focus attention on the level of danger, but not on how to reduce the danger and create safety. They provide some assistance in defining the severity of the problem, but provide no guidance concerning what to do about a situation that is high risk.
• By focusing on individuals, risk assessment instruments ignore the effects that inadequate or inappropriate services can have on increasing risk.
• Risk assessment instruments can actually increase risk when they are not used as part of a coordinated safety planning process. An offender’s behaviours and actions cannot be guaranteed with risk assessment; therefore, having a safety plan in place is essential to increase victim safety.

Risk assessment instruments are not in and of themselves, a comprehensive solution. Instead, risk assessment tools should only be used as a part of the total plan to manage safety.

2.2 ARTAMI – Alberta Relationship Threat Assessment Management Initiative

The Alberta Relationship Threat Assessment Management Initiative was developed to implement threat assessment in family violence and stalking cases that are deemed high-risk (including homicide and suicide.) High-risk cases are identified by a referral protocol developed by ARTAMI and relevant community agencies and police services. ARTAMI provides an integrated criminal justice response to incidents of relationship violence and stalking, to help reduce and prevent such incidents resulting in serious violence.

ARTAMI is a collaborative team that includes a provincial director, Crown prosecutor, a family law expert, a consulting forensic psychologist/psychiatrist, a victim safety consultant, a Children’s Services liaison, four RCMP members, and four municipal police officers from Edmonton, Calgary, Medicine Hat and Lethbridge. The main ARTAMI office is located in Edmonton.

The ARTAMI team provides support and expertise to police, child intervention case workers, mental health professionals, family and emergency doctors, women’s shelters and other professionals who encounter clients and/or victims experiencing family violence and/or stalking. Direct referrals should come through police services or other agencies that can refer clients through their local police service.

ARTAMI operates in both urban and rural areas.

2.3 Safety Planning

Safety planning is critical when working with a victim who has been battered or threatened by an intimate partner. Evidence has shown that the danger of violence, including the risk of death, increases when the victim tries to leave the abusive intimate partner.

Developing a Safety Plan

Safety plans must be designed specifically for the individual and her or his children and for a specific period. You can find information on safety planning and find a printable planning guide/worksheet at the following internet website: www.shelternet.ca

The abused individual may wonder whether to tell their partner/caregiver they are leaving. In cases where there has been physical abuse or extremely controlling behaviour, telling the abusive person can seriously endanger the abused. Many abusive persons become increasingly violent when they fear their partner is leaving or they are losing their control over them. Many victims are killed as they attempt to leave their abusive partners.

Please refer to the Appendix, Section 11.3 for an example of a safety plan.

### 3.0 THE CRIMINAL JUSTICE SYSTEM

#### 3.1 What Victims of Domestic Violence Should Know

Every individual has the right to peace, safety, and protection. Every individual has the right to use the criminal justice system for his/her security and to ensure that justice is served when a criminal offence has been committed. Every individual has the right to expect that the police and the criminal courts will enforce his/her right to live without threats, coercion, intimidation, and violence.

#### 3.1.1 How the Law Defines Domestic Violence

Although domestic violence can be defined and characterized, as in the previous section, it has not been legally defined in the *Criminal Code*. Canadian law does not recognize a crime called “domestic violence.” Instead, the criminal justice system will only prosecute those acts of violence that fall under the *Criminal Code*. Therefore, many forms of abuse are not considered “crimes” and cannot be dealt with by the police and the criminal courts. However, a victim of violence may look for protection through civil law. **It is important to understand that all forms of domestic violence, even those not defined as “crimes” are morally wrong, harmful, and unacceptable.** Victims of violence can get support from community agencies to help deal with all forms of abuse.

The following are *Criminal Code* offences that cover **some** forms of domestic violence.

**Assault** is committed when a person intentionally applies force to another without that person’s consent, or threatens to apply force to another when the victim believes that person has the ability to carry out the threat. Physical injury is not essential to prove a charge of assault. The law does not distinguish between assault by married spouses, common-law spouses, same-sex partners, caregivers, or strangers.

Various categories of assault are set out in the *Criminal Code* of Canada. They include:

1. Assault (also called “simple” assault) – where force is used or threatened but there is no physical injury;
2. Assault with a weapon;
3. Assault causing bodily harm;
4. Aggravated assault (victim is wounded, disfigured or life is endangered);
5. Attempted murder;

**Sexual assault** is defined as unwanted sexual contact without physical signs of assault. The law sets out further levels of sexual assault including: sexual assault with a weapon or with threats to a third party; sexual assault causing bodily harm; and aggravated sexual assault.

**Criminal harassment or stalking** is harassing behaviour that causes another person to fear for his/her safety or for another person’s safety. Behaviour that the law prohibits includes repeatedly communicating with the person, watching their home or workplace, and engaging in threatening conduct directed at them or any member of his/her family.

**Uttering threats** occurs when a person conveys to another person a threat to cause death or bodily harm or a threat to destroy or damage personal property. This definition also covers threats of injury or death to a person’s pet.

**Forcible Confinement** is a criminal offence and refers to confining, imprisoning, or forcibly seizing another person. Forcible confinement occurs when a person does not allow another person out of, for example, a house, room, bed, or chair for extended periods of time.

Other sections of the **Criminal Code** that can apply to a situation of domestic violence include, but are not limited to:

- Sexual offence against children and youth (ss. 151-153, 155, 170-172);
- Trespassing at night (s.177);
- Child pornography (s.163.1);
- Failure to provide necessaries of life and abandoning child (ss. 215, 218);
- Criminal negligence, including negligence causing bodily harm and death (ss.219-221);
- Homicide, attempted homicide, infanticide and manslaughter (ss. 229-231, 235);
- Abduction of a young person (ss.280-283);
- Making indecent & harassing phone calls (s.372);
- Mischief (s.430);
- Intimidation (s.423);
- Breach of a court order, recognizance (peace bond), and probation order (ss. 145(3), 127, 811, 733.1);
- Break and Enter (s.348-353);

**Dating Violence**

Although dating violence has not been legally defined, many of the violent behaviours which characterize violent dating relationships fall within the jurisdiction of the Canadian Criminal Code. A youth (under age 18) is still responsible to obey the law (Youth Criminal Justice Act) and its related penalties. Dating violence is taken seriously by the courts.
3.2 THE CRIMINAL JUSTICE PROCESS

The following section outlines the flow in a typical criminal investigation and prosecution as it relates to instances of domestic violence.

3.2.1 The Role of the Police

The role of the police is to investigate allegations of domestic incidents, conduct risk assessment and safety planning for parties involved, and lay criminal charges when there is sufficient evidence to do so. Those experiencing domestic violence are encouraged to call the police for protection during an abusive incident or afterwards to report the incident. No one should have to suffer abuse.

**Barriers to Reporting to the Police**

People have various reasons for not reporting to the police, including fear of the police, fear of revenge from the accused, and fear of how they will provide for themselves if the accused is arrested. Those individuals who have a disability may fear that they will lose attendant care and other necessary supports, and/or may be fearful of being (re)institutionalized. Older persons may be cautious to report abuse because of fear they will lose family members (i.e. grandchildren).

In addition, cultural barriers may play a significant part in determining whether or not and when a victim will ask for help (e.g. language barriers, cultural restrictions, etc.). Recent immigrants from authoritarian countries may hold negative and fearful views of police officers.

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People who have experienced violence should be made aware that the police could become involved regardless of their wishes. Sometimes neighbors or school officials will become concerned and report suspected abuse to the police or other authorities (i.e. Child Welfare).

**Specialized Police Units**

Some cities and towns have developed specialized services or units for domestic violence intervention. Services offered by the units include crisis response, personal support, referral to community resources, information on the status of the police investigation and court assistance.

**Domestic Conflict Unit**

In Calgary, the Domestic Conflict Unit has investigators that specialize in cases of domestic violence. The unit's 12 employees review every incident reported to police involving domestic violence. They look for chronic cases or ones where the victim is considered to be at a high risk of serious injury or death. Upon completion of a thorough risk assessment to determine if the investigation fits within the scope of the Domestic Conflict Unit's mandate, the file is assigned to one of the two-person teams. This team is then responsible for following up the incident, interviewing the complainant and assessing the person's level of risk.

The investigators help the complainant navigate the legal system - often laying additional charges - and connect the victim with support services within the community. If the person is at risk, the officers may move the victim to a shelter or provide safety planning and other options.

**The Domestic Conflict Unit also:**

- Responds to cases referred by external and internal agencies.
- Maintains formal contact with victims and offenders.
- Provides assistance to Crown prosecutors.
- Tracks cases through court.
- Assists in the production and presentation of training materials.
- Investigates high-risk situations and repeat calls involving the same complainant and/or same offender.
- Deals with breach enforcement and criminal harassment/stalking offences.
- Provides assistance to street personnel and numerous community partners.

The Domestic Conflict Unit works with many areas of the criminal justice system to stop the cycle of violence. The Calgary Police Service effectively works in conjunction with:

- Crown prosecutor's office
- Domestic court system
- Domestic court caseworkers
- Probation
- HomeFront

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17 Source: Calgary Police Service, *Sections and Units – Major Crimes Division – Domestic Conflict Unit* 18 April 2008  
[http://www.calgarypolice.ca/sections/major/domestic.html#4]
HomeFront provides caseworkers that work with every victim of domestic violence where criminal charges have been laid. Working in the domestic violence docket court, the HomeFront caseworkers provide referrals to community agencies and services. The caseworkers also recognize high-risk victims and refer their cases directly to a Domestic Conflict investigator. This collaboration allows a diverse approach to addressing the needs of the victims. The Unit provides an investigator to the domestic violence courtroom, offering assistance to the Crown and court team. This daily monitoring also recognizes high-risk offenders and victims.18

Child-At-Risk Response Teams (CARRT)

The Edmonton and Calgary Police Services also provide Child At-Risk Response Teams (CARRT) in situations where children are considered at risk. The CARRT Teams are made up of two-person teams, consisting of a police officer and a social worker. They are first responders to calls that originate from police communications, the child abuse unit, and the agency’s crisis unit. A computerized database of case files is accessible by both police and social workers. Each team investigates situations that pose immediate safety concerns involving children at risk. The goal of this collaborative effort is to protect children from all forms of abuse, exploitation, and neglect. The CARRT teams give presentations that increase the public’s knowledge of ways to protect children.

When the Police Lay a Charge

Many domestic violence victims are unaware that (1) when the police respond to a complaint, the police (not the victim) make the decision to charge or not to charge the reported abusive person with an offence under the Criminal Code of Canada; (2) the victim cannot withdraw a charge; and (3) if the police lay a charge, subsequent release conditions of the accused person may include No Contact and/or No Go conditions.

A victim intending only that the police warn the abusive person about his or her behaviour or just wanting to have the police remove the abusive person overnight with no further consequences may be upset if the police lay a charge.

Similarly, a victim may be upset if the police do not charge when the victim wants the abusive person charged. The victim may not understand that, if the police do not have sufficient evidence, they will not lay a charge.

Criminal charges are laid when there are reasonable grounds to believe that an offence has been committed, it is in the public interest to proceed with the offence and there is a likelihood of successful prosecution. In Calgary if a charge is laid, the police will arrest the accused and take him/her into custody. Domestic arrests will be processed by the Arrest Processing Unit, where the offender will be photographed and fingerprinted; he may be then released by a Justice of the Peace or supervisor at arrest processing. The offender may alternatively be held over for morning court. Domestic arrests must be provided a court date for Domestic Court within five working days. This is why all domestic offenders are transported to the arrest processing unit, as opposed to being released by way of an Appearance notice.

When the Police Make an Arrest

If the accused is arrested, he/she has the right to a bail hearing within 24 hours of the arrest. At the bail hearing, a judge or Justice of the Peace will consider such things as whether there is a reason to believe that the accused will not appear in court for the trial and if the accused is likely to commit another criminal offence if he/she is released. If the accused has a related criminal record, a history of not appearing for court, or is out on bail for an indictable offence, he/she may be held in custody. Otherwise, the courts must release the accused on bail.

Police departments have now created guidelines for warning victims of domestic violence. It is important to understand that the police or Crown Prosecutor will only warn a victim where they believe the victim is in a significant degree of danger.

Release

Only when serious charges have been laid and the accused presents a serious risk to the community, is the accused most likely to be held in custody. The majority of offenders are released under some kind of judicial interim release (i.e. bail). Therefore it is important for the victim to find out what the release conditions are. This can be done through the police or the Crown Prosecutor's Office. If the victim is afraid for his/her safety, the police can request a “No Contact” or “No Go” conditions as part of the accused’s pre-trial release. If the accused disobeys a condition of his/her release, he/she will face additional Criminal Code charges and may be arrested.

Many victims are distressed when no contact provisions prevent indirect contact with the accused/respondent about urgent family matters such as finances, possible reconciliation, arranging child access visits, and sharing information about their children. While a no contact provision is not against the victim, the victim needs to understand that any attempt he or she makes to initiate direct or indirect contact with the accused/respondent places the accused/respondent at risk for being charged with breach of a no contact condition. The victim also jeopardizes future enforcement of a no contact condition if he or she invites or has voluntary contact with the accused/respondent because the police may be reluctant in the future to enforce conditions. If both parties want the elimination of or variance of a no contact condition, in criminal cases the accused must make an application for a bail review hearing.

No Contact and No Go Orders

The No Contact order prohibits the accused from having any direct or indirect contact with the victim and may include other persons involved in the incident. No “direct contact” prohibits the accused from having face-to-face contact with the victim while no “indirect contact” prohibits the accused from contacting the victim by indirect means such as telephone, e-mail, letter, messages through third parties, and gifts. Indirect contact through legal counsel is permissible.

The No Go order prohibits the accused from going within a specified distance of the victim’s (and other specified persons) residence, the victim’s place of employment, or other places the

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19 On July 29, 1999, Minister of Justice and Attorney General, Dave Hancock, announced new guidelines for improving bail notification and protection to victims of domestic violence. Under the new guidelines, police and Crown Prosecutors across Alberta will identify cases where the victims are considered to be at risk and will notify victims of offenders being released on bail.
victim may habitually use. The accused may make at least one police-escorted visit (by appointment) to his or her former residence to retrieve personal belongings.

No Contact and No Go orders effectively remove the accused from any accommodation shared with the victim.

**Breaches**

It is important to be aware that the accused may not obey the release conditions; therefore the release conditions should not be solely depended upon for the victim’s safety. Also, if the victim agrees to let his/her spouse, partner, or caregiver have contact with him/her when there is a No Contact condition in place, the victim is in breach of the order. Police may reluctant to provide extra assistance if they believe the victim has agreed to the contact.

Any conditions given at the time of release continue to be in effect until the court proceedings have concluded. For No Contact and/or No Go conditions to be removed or varied, the accused must make a court application. The Crown Prosecutor will want to know the victim’s wishes and the judge will usually want the victim’s consent before making any changes to No Contact and No Go conditions.

If any condition is violated, a separate criminal offence known as “breach of recognizance” or “breach of undertaking” is committed and separate charges can be laid and the accused may be taken into custody. For his/her protection, the victim needs to report any violation of the release conditions to the police immediately. The victim may also want to keep a record of each violation and the times when the police were called (i.e. note the police officer’s name and I.D. number) as evidence for court.

An accused person convicted of breaching a No Contact Order and/or a No Go Order, faces criminal sanctions under Section 127 of the Criminal Code of Canada which provides for a maximum sentence of imprisonment up to two years.

**When the Police Do Not Make an Arrest**

When the police do not charge but recognize that the victim is unsafe, they have several options: (1) they may apply (with victim’s consent) to a Justice of the Peace for an Emergency Protection Order to remove an abusive family member from the residence; (2) they may suggest that the victim apply for an Emergency Protection Order; (3) they may suggest (and assist) the victim in leaving for a Shelter or another safe place and advise the victim to apply for a Restraining Order; or (4) in a less urgent situation, advise the victim to apply for a Peace Bond or to lay a Private Information.

**Counter or Dual Charging**

Sometimes an abusive partner will threaten to lay counter-charges if he/she is charged. The accused may try to intimidate the victim by making such threats. In some jurisdictions with mandatory charging policies, counter or dual charging can be a concern. If the victim has been charged, it is important to get advice from a lawyer as soon as possible.
Withdrawing a Charge

Once a charge has been laid, the victim or the police cannot remove it. Only the Crown Prosecutor has this authority. The policy of the Department of Justice is that charges of domestic violence normally continue, even when the victim does not wish to continue with the process. If the victim is considering asking to have the charges removed, he/she should speak with legal professionals who are knowledgeable in domestic violence to discuss the matter.

3.2.2 The Role of the Court

There are three courts in Alberta administered by the province that deal with criminal matters: The Court of Appeal of Alberta; the Court of Queen's Bench of Alberta; and Provincial Court of Alberta. The role of the court is to interpret the law, determine facts and make decisions in a fair and impartial manner.

Provincial Court - The Criminal trial court handles first appearances, entry of pleas, bail hearings, preliminary inquiries and the trials and sentencing of all summary convictions and the majority of Criminal Code indictable offences.

Court of Queen's Bench - The Court of Queen's Bench is the Superior Trial Court for the Province, hearing trials in civil and criminal matters and appeals from decisions of the Provincial Court. The Chief Justice and other Justices of the Court of Queen's Bench are also judges of Surrogate Matters, which has jurisdiction over probate and administration of estate matters. Court of Queen's Bench sittings are held in various areas of the Province.

Court of Appeal - The Court of Appeal hears appeals from the Court of Queen's Bench, the Provincial Court and administrative tribunals. As well, the Court provides its opinion on questions referred by the Lieutenant Governor under the Judicature Act. Court of Appeal sittings are held in Edmonton and Calgary and serve the entire Province of Alberta.

3.2.3 The Role of the Crown Prosecutor

The Crown Prosecutor is a lawyer authorized to represent the Crown in relation to the prosecution of offences. The Crown Prosecutor is not the lawyer for the police or the victims. Instead, prosecutors have a duty to ensure that all available legal proof of the facts is presented to the court to prove the charges. The Crown Prosecutor has the police report and victim statements, and will prosecute based on that documentation. If the victim wishes to present any other information before the court, he/she should speak to the Crown Prosecutor to determine if it is relevant to the proceedings.

3.2.4 The Role of the Defence Counsel

Persons who are arrested or detained have a constitutional right to speak to legal counsel (i.e. a lawyer). The defence counsel represents the accused and usually becomes involved once an investigation has commenced or charges have been laid. The victim is not required to have any contact with the defence counsel. If the defence counsel contacts the victim, he/she has every right to refuse to talk to the defence. If the victim has any concerns, he/she should contact the investigating officer or the Crown Prosecutor's office.
3.2.5 First Court Appearance (Docket Court)

During the first court appearance, the accused will enter his/her plea of guilty or not guilty whether the offence is a summary offence (i.e. least serious offence) or an absolute jurisdiction offence\(^{20}\). If the offence is indictable (i.e. most serious offence), the accused will be asked to make his/her election. The determination of a Judicial Interim Release (i.e. bail) may also be made if the accused has been held in custody. However, the accused may ask for an adjournment before bail is spoken to or a plea/election is entered.

Calgary’s first appearance/docket court is specialized to deal with domestic violence offences. The court uses a team of experts who meet and review each case with defence counsel prior to it being dealt with. If the accused pleads guilty, he/she is sentenced. In appropriate cases, treatment-focused sentences or dispositions are strongly considered. All sentences include some form of legal sanction (e.g. peace bond, probation, incarceration, fine) and treatment (e.g. domestic violence counselling, substance abuse counselling, etc.) with an emphasis on victim/child safety and offender accountability. If the accused pleads not guilty, he/she will proceed to trial.

3.2.6 HOMEFRONT

HomeFront was launched in Calgary in May 2000, as a coordinated justice/community response to address domestic violence. HomeFront’s Early Intervention and Outreach, Court Casework and Partner Support programs assist victims of domestic violence and ensure offenders have quick and subsidized access to treatment programs. The Court Casework program works in the specialized domestic violence docket (first appearance) and trial Courts, which sit each weekday. Throughout the court process, a court team consisting of police officers, defense attorneys, Crown prosecutors, probation officers and HomeFront’s Court Caseworkers provide support to victims. Victims are also referred to community resources.

Docket (First Appearance) Court

The docket court specializes in domestic violence offences in their first appearance before the court. The Court Team includes Crown prosecutors, police officers from the Domestic Conflict Unit, probation officers, Legal Aid counsel and domestic violence Court Caseworkers. These specialists meet and review each case with defense counsel before a court appearance. During this pre-court conference, resolutions are discussed, and it is ensured the Crown and the defense clearly understands the history and background of the situation, as well as the complainant’s wishes.

HomeFront’s own domestic Court Caseworkers encourage and support victims by explaining the court process and getting them more involved. All sentences made in the Docket Court focus on victim and child safety, along with offender accountability, through meaningful court sanctions and treatment, when appropriate. Sentences include some form of legal punishment, typically a peace bond or probation, and some kind of treatment, such as domestic violence and/or substance abuse counselling. Where appropriate, treatment-focused sentences are considered.

\(^{20}\) An absolute jurisdiction offence is an indictable offence listed in s. 553 of the Criminal Code, but is treated procedurally like a summary conviction offense. For example, an accused does not have the option to elect to have his/her trial in the Court of Queen’s Bench if charged with an offence listed is s. 553 as with other indictable offences.
Specialized Trial Court

In Calgary, charges of domestic violence first go to the Docket Court. If the accused pleads ‘not guilty’ or the case cannot be resolved in the docket court, the case must then continue on to trial court. Domestic violence cases are heard in the trial court every afternoon so that the process may be expedited. This is important because the waiting time between the docket and trial court can put a victim in danger and delays the opportunity for the parties involved to begin their lives free from violence and the courts’ involvement.

In this trial court, HomeFront’s Court Caseworkers encourage complainants to see the process through and they act as a liaison between complainants and Crown prosecutors. Victims are therefore safer, better informed, and more involved throughout the justice process.

Early Intervention and Outreach Program

Each year more than 11,000 phone calls are made to the Calgary Police Service regarding domestic conflict, and nearly half of these situations involve children. HomeFront works with the Calgary Police Service and Calgary and Area Child and Family Services to intervene through the Early Intervention and Outreach Program. Program referrals are made by the Calgary Police Service, for those families who agree to participate. This program is for children and families that are experiencing low risk domestic violence and not currently involved with Child and Family Services.

Each case is screened by a risk assessment specialist, and participation in the program is voluntary. The program’s workers visit the home to support families and point out their strengths, rather than focusing on their problems. The program also provides information on community agencies best able to assist the individual families, and provides direct assistance to families in connecting with appropriate community resources.

Partner Support Program

The Partner Support Program assists victims of domestic violence while their offender is under supervision by Calgary probation. The Partner Support Program staff maintain regular contact with victims, encouraging them, addressing safety issues and assisting them to access appropriate community supports, while also liaising between the victim and probation officers.

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Accused offenders, sent back by the Courts while waiting for trial, can be released into the community under pre-trial supervision. Frequently, accused offenders are ordered to have no contact with the victim and to report to a probation officer as a condition of their release. They may also be required to participate in treatment as a condition of their release. Failure to comply with conditions of the recognizance can result in the accused person being charged.

Guidelines were announced in Alberta on July 29, 1999 to improve bail notification and protection to victims of serious domestic violence. These guidelines allow police and Crown prosecutors around the province to identify cases where victims are considered to be at risk, and to notify the victims of offenders being released on bail. These new guidelines include:

- Police can flag cases where victims are deemed to be at particular risk, and victims can ask for notification. The speed of notification will depend on the ability of the police or Crown to contact the victim. The guidelines recommend telephone or personal notification whenever possible.
- Victims will be notified of the results of initial bail hearings and bail review hearings.
- Cases of spousal violence that have been flagged will be referred to specialized police spousal units, where such units exist.
- Crown prosecutors are to be individually assigned to cases of serious domestic violence, to ensure continuity throughout all stages of the case.
- Victim bail notification procedures will be included in domestic violence training programs for people employed in the criminal justice system.
- Police and Crown prosecutors are encouraged to develop local risk factoring tools to identify those accused who are most likely to offend while on bail.22

### 3.2.7 Preliminary Inquiry

The purpose of a preliminary inquiry is to determine if there is enough evidence to have the accused go to trial for the offence charged. A preliminary inquiry is held in Provincial Court and a Provincial Court judge will make that determination. Not all offences involve a preliminary inquiry. Summary offences, and those indictable offences where an accused has chosen to have his/her trial in Provincial Court, are tried by a Provincial Court judge. Preliminary inquiries will precede the trial of an indictable offence in the Court of Queen’s Bench.

Depending upon the circumstances and for first offences in domestic violence cases, the Crown Prosecutor may consent to withdraw a criminal charge if the accused enters into a twelve-month Peace Bond which usually includes No Contact and No Go conditions.

### 3.2.8 The Trial Process

The trial process is complex; details will differ depending on the specifics of each case. Offences, depending on the category (i.e. summary, indictable, or dual procedure) will be tried

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in different courts and may or may not involve a jury. The victim should consult with the police or the Crown Prosecutor to determine what criminal trial procedure will be used.

It is important to remember that the victim does not have a lawyer representing him or her during the criminal prosecution. Instead, the victim is a “witness” for the Crown Prosecutor and can be served with a subpoena to appear in court to give evidence. The prosecutor handling the file may contact the victim before the trial date to discuss the matter, or in some instances, the prosecutor may only speak to the victim moments before trial. The victim should be encouraged to speak to the Crown Prosecutor if he/she has any questions or concerns about what will happen in court, and advise the Crown of any relevant information. The victim will be cross-examined by the defense counsel.

The trial process can be a very overwhelming experience for many victims; hence they may wish to ask family and friends to sit with them in court for support. Victims can also receive support from the Victim Assistance Program of their local police department and other community agencies. These agencies help victims to better understand the criminal justice process and their role in it.

Testifying in Court

Sometimes the individual who has been assaulted does not wish to give evidence against his/her spouse, partner, or caregiver. However, in many cases he/she will be required to do so.

There is a general rule in the criminal justice system that a legally married spouse does not have to give evidence against his/her spouse, but can do so if he/she wishes. One exception to this rule exists in assault cases. Where an offence involves personal violence or threat of personal violence by one spouse towards another, the victim may be asked by the Crown to testify against the abusive spouse and must give evidence, if called to do so, whether he/she wants to or not.

To refuse to testify when the law requires is an offence called “contempt of court” and could lead to a fine, a jail term, or both. Anyone who is considering taking back their testimony or not appearing in court should obtain legal advice from a lawyer so they can better assess their options. The victim should understand that he/she may face perjury or mischief charges should they take back or change her/his testimony; therefore, the possible legal consequences must be explored.

Interpreters are provided for testimony in court if the victim does not speak English. American Sign Language Interpreters or deaf/blind interveners may also be provided for the testimony of victims who are deaf or deaf/blind, respectively.

Persons with Disabilities

With recent changes to the Canada Evidence Act regarding people with disabilities, the Court can order that the witness be allowed to give evidence by any means that would make the evidence understandable. Section 6 of the Canada Evidence Act addresses evidence of persons with physical and mental disabilities, and allows for the identification of an accused by any sensory means.
Children under the age of 14 are now permitted to give evidence if they are able to understand and respond to questions. Child victims and witnesses under the age of 18 are better protected by allowing them to give evidence using testimonial aids such as: screens, closed-circuit television and support persons.

Victims of Criminal Harassment

In cases where the accused is self-represented, the crown may apply for an order to appoint counsel to cross-examine victims of criminal harassment. This is to help prevent the victim from having to suffer any additional harassment by the accused and protect their well-being.

Other vulnerable victims and witnesses, such as the elderly, victims of spousal abuse and/or sexual assault, can apply to use testimonial aids (screens, closed-circuit television and support persons) rather than having to face their abuser. This is to protect the victim from intimidation and aid in the gathering of clear evidence.

3.2.9 Sentencing

If the accused is found guilty, he or she will be sentenced. The sentence may vary considerably depending on the circumstances (i.e. severity of the assault) as well as the offender’s prior record and background. If the victim wants the Court to consider the impact the crime has had on him/her, he/she should complete a victim impact statement and contact the Crown Prosecutor to make his/her views known.

The victim should understand that the accused is being sentenced only for the offence currently before the court. While it is often the case that the victim will suffer many assaults before he/she goes to the authorities, the court, in most circumstances, does not take the entire history of the abuse into consideration.

The various sentencing options available to the judge include an: 1) absolute discharge, 2) conditional discharge, 3) suspended sentence and probation, 4) fine, 5) conditional sentence, 6) jail term, or 7) combination of some of these sentencing options.

1) Absolute Discharge: The offender, although he/she has been found guilty, will not receive any punishment, nor will he or she be placed on probation. He or she will not have a criminal record for the offence. This sentence may be given to first offenders.

2) Conditional Discharge: The offender is placed on probation for a specified period of time. The difference between this and a suspended sentence is that in the case of conditional discharge, if the probation is completed successfully, the offender will not have a criminal record for the offence. However, the offender will still have a record of the finding of guilt. Conditions that may be placed on the offender include obtaining counselling or not contacting the victim for a set period of time.
3) **Suspended Sentence and Probation:** Instead of imposing a fine or a jail term, the judge may suspend the sentence and place the offender on probation for a specified period of time. If the offender completes the probation successfully he or she will have a criminal record for the offence, but will not be fined further. If he or she violates the terms of probation, he or she can be charged with breach of probation, which could result in a fine and/or jail term.

In either the case of a conditional discharge or a suspended sentence, if the offender is convicted of a new offence, the violation or new offence does not terminate the probation order, and the conditions still remain in effect unless the sentence is revoked.

4) **Fine:** The judge can order the offender to pay a set amount of money to the court. The judge cannot order that the fine be paid to the victim. The amount of the fine varies with the severity of the crime, background of the offender, and the offender’s ability to pay. If the fine is not paid or worked off through community hours, the offender will generally be incarcerated for a set period of time.

5) **Conditional Sentence:** The conditional sentence allows the judge to impose a jail sentence; however, the judge may allow the sentence to be served in the community under strict conditions, such as house arrest or curfews, where the Court is satisfied that the offender does not present a danger to the community. If the offender violates any condition, he/she has to prove that there was a reasonable excuse for violating the sentence conditions. The Court can take no action, change the sentence conditions, suspend the conditional sentence and put the offender in custody for a short period of time, or terminate the conditional sentence and put the offender in custody for the remainder of the sentence.

6) **Jail Term:** The length of a jail term will vary with the severity of the offence and the previous criminal record of the offender. A jail term is unlikely for a first conviction, unless the offence is of a serious nature. If the sentence is ninety (90) days or less, the judge may order that it be served on certain days, (i.e. on weekends), so that the offender can continue his or her employment. The offender remains in the community and is not incarcerated, therefore it is important that the victim continue to address his/her safety during this time.

If the offender is sentenced to a jail term of two years less a day, the sentence will be served in a provincial correctional facility. If the sentence is more than two years, it will be served in a federal correctional facility.

No matter what jail term is imposed, the offender will most likely not serve his/her complete sentence. The victim is encouraged to contact the appropriate correctional facility to ask to be advised of any release plans. An offender can apply for statutory release. Statutory release may be granted, if it is determined the offender would not constitute a threat to public safety nor to any specific person or group of persons, and if the offender’s behaviour does not raise doubt that he/she will comply with the terms of mandatory supervision. The offender will be subject to mandatory supervision until the expiration of the full period of their sentence.

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23 The judge can only order restitution be made to the victim as a condition of probation. The victim can request that the Crown Prosecutor recommend that restitution be made.
Probation

A large number of offenders in domestic violence cases are placed on probation for a period of time. Probation may be given in addition to a fine, a period of incarceration, or a conditional sentence. Probation is a disposition that allows the individual to serve his/her sentence in the community within certain conditions. The only necessary conditions are that the individual “keep the peace and be of good behaviour” and report to the courts when required to do so. Common additional conditions include: supervision (i.e. reporting to a probation officer); not consuming alcohol and drugs; no association with certain individuals; and mandated participation in counselling. The maximum period of probation is three years.

Probation conditions for the convicted person may include No Contact and/or No Go conditions for the probation period. The probation order may give the probation officer discretion to vary No Contact and No Go conditions with the victim’s agreement.

In some jurisdictions, offenders convicted of domestic violence related offences are assigned to designated domestic violence probation officers. These probation officers have received extensive training in the dynamics of domestic violence and are familiar with treatment programs available within the community.24

Temporary Absence

Some inmates serving a jail sentence in a provincial correctional facility are eligible to apply for a Temporary Absence (TA) after completing a portion of their sentence. Inmates generally receive and start with “day TA’s”. This allows inmates to be released into the community during the day and return to the correctional centre in the evening. Failure to comply with any of the conditions of the Temporary Absence will result in an immediate suspension and the offender will be required to serve the remainder of their sentence.

If the Accused is Found Not Guilty

The accused being found not guilty does not mean that the accused did not commit the crime, nor that the judge did not believe the victim. It may simply mean that there was not enough evidence to prove the case “beyond a reasonable doubt”, necessary in Canadian law.

3.2.10 Appeal of the Trial Decision

It is possible that the conviction and/or sentence will be appealed by either the Crown Prosecutor or the accused’s lawyer, as directed by the accused. Notice of appeal must be given within 30 days of sentencing.

24 The Community Corrections, Partner Support Program is a volunteer-based program of the Calgary office of Alberta Justice, Probation Department, which works in conjunction with women’s shelters to increase the safety of women and children whose partners have been given probation relating to incidences of domestic violence.
3.2.11 Victim Assistance

Victim assistance may be available through the local police and through community-based agencies, including HomeFront and Calgary Legal Guidance. For victims of domestic violence, the Victim Assistance Unit can provide: personal support, information concerning the investigation and court (i.e. charges, conditions of accused’s release, upcoming court dates, and position); referrals to appropriate community agencies; assistance with completing a Victim Impact Statement; court preparation and accompaniment; and information and assistance with criminal injuries applications.

In some jurisdictions, victim assistance is available to victims 7 days a week, 24 hours a day.

**Victim Assistance Unit (Calgary Police Service) (403) 206-8353**

**Calgary Legal Guidance (403) 234-9266**

**HomeFront (403) 206-2100**

Bill C79 allows victims to read their Victim Impact Statement upon conviction in court. The Victim Assistance Unit can provide information and assistance with Victim Impact Statements.

**Immigrants and Newcomers**

Victims who have recently come to Canada may be unaware of their legal rights regarding domestic violence, and/or they may find it very difficult to seek assistance because of cultural, language, and other barriers. Immigrants with landed immigrant status or Canadian citizenship are entitled to the same legal treatment as people born in Canada. Interpreters are provided for testimony in court if the victim does not speak English.

4.0 CIVIL LEGISLATION THAT CAN HELP PROTECT VICTIMS OF DOMESTIC VIOLENCE

The following pieces of civil legislation may also come into effect, in addition to the laying of criminal charges.

4.1 Protection Against Family Violence Act (PAFVA)

*During the discussion of the Protection Against Family Violence Act, the term “family violence” will be used instead of “domestic violence”, as family violence is the term used in this particular piece of legislation.*

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25 Personal interview with Lynn Gaudet, Certified Canadian Immigration Consultant. 10 Aug. 2007. For more information, please refer to the following website: http://www.swc-cfc.gc.ca/pubs/pubspr/0662296427/index_e.html.
The Protection Against Family Violence Act of Alberta (PAFVA) came into effect on June 1, 1999 and with amendments effective November 1, 2006. PAFVA provides for three statute-based protective orders: (1) the Emergency Protection Order (EPO); (2) the Queen's Bench Protection Order (QBPO); and (3) the Warrant Permitting Entry. EPO’s and QBPO’s can be empowering for the claimant because the claimant has the ability to determine the conditions included in either protection order.

The Preamble to PAFVA states that its purpose is to prevent family violence and make accountable family members who are violent towards other family members. PAFVA discusses the nature of family violence and provides definitions.

The Alberta Government PAFVA Community Orientation states that “Family violence is the abuse of power within relationships of family, trust or dependency that endangers the survival, security or well-being of another person. It can include many forms of abuse including spousal abuse, senior abuse and neglect, child abuse and neglect, child sexual abuse, parent abuse, and witnessing abuse of others in the family. Family violence may include some or all or the following behaviours: physical abuse, psychological abuse, criminal harassment/stalking, verbal abuse, sexual abuse, financial abuse, and spiritual abuse”.

PAFVA includes the following as constituting family violence: (1) any intentional or reckless act or omission that causes injury or property damage the purpose of which is to intimidate or harm a family member; (2) any act or threatened act that causes a reasonable fear of injury or property damage, the purpose of which is to intimidate or harm a family member (this includes mental abuse and threats of abuse); (3) forced confinement; and (4) stalking (added November 1, 2006).

PAFVA does not cover those situations where a parent uses “reasonable” force to discipline a child and victims can be protected even if they do not live together.

PAFVA defines family members as persons who are related to each other by blood, marriage, adoption or by virtue of an adult interdependent relationship. Even if relatives do no live together they are still “family members”. Family members include:

1. persons who are married or previously married to one another;
2. persons who are or were adult interdependent partners (see below);
3. persons residing together in an intimate relationship;
4. persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time;
5. any children in the care and custody of the persons listed above; and
6. persons who reside together where one of the persons has care and custody over the other pursuant to an order of the court.

The “family member” definition is broad and includes same sex partners and vulnerable people such as seniors or persons with disabilities who are living with an abusive family member but does not include non-family caregivers and persons in dating relationships. Victims can be protected even if they do not live with their abuser.

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26 These are detailed in Section 5.0.
The Protection Against Family Violence Act is not criminal legislation and therefore does not put criminal responsibility on a particular individual. However, the Act can be used together with sections of the Criminal Code (i.e. assault charges). The intent of the Act is not to deal with the long-term resolution of property, support, parenting orders, or contact issues (refer to the appropriate sections contained in this manual concerning these issues). Some benefits of proceeding through the civil rather than the criminal court may be:

- the claimant can stay in the residence;
- the respondent receives no charge or criminal record. A claimant may be more likely to report an incident, especially if they are an immigrant or refugee in fear of deportation;\(^{27}\)
- once the claimant is protected, they gain back a sense of power and may more willing to share other criminal acts that have occurred.

**Adult Interdependent Relations Act (AIRA)**

The Adult Interdependent Relations Act of Alberta (AIRA) defines an adult interdependent partner (AIP) as a person in an adult interdependent relationship which is a relationship between two people outside of marriage with the two persons functioning as an economic and domestic unit. AIRA further states that:

1. the relationship does not exist where one person pays a fee to the other (or other consideration) for domestic care and personal support;
2. qualifying persons may enter into an adult interdependent partner agreement;
3. persons related to each other by blood or adoption (except where one is a minor) may only become an AIP of each other by entering into an adult interdependent partner agreement; and
4. the relationship includes someone who has lived with another person in a relationship of interdependence for a continuous period of not less than three years, or, of some permanence if there is a child of the relationship by birth or adoption.

**First Nations Reserves**

All provisions of the Protection Action Family Violence Act apply on First Nations reserves, except those that relate to the exclusive possession of the residence. To make these latter provisions applicable, a bylaw must be adopted by the reserve’s Band Council. However, offenders may be prevented from going near or entering the home under the Act’s no contact provision.

**Provincial Legal Aid Office (for additional PAFVA legal assistance)**

For Toll Free dial 310-0000 then (780) 427-7575

PAFVA – Full Act [http://www.canlii.org/ab/laws/sta/p-27/20061113/whole.html](http://www.canlii.org/ab/laws/sta/p-27/20061113/whole.html)

\(^{27}\) Receiving charges may anger the respondent and cause them to become more violent.
4.2 Child, Youth and Family Enhancement Act

On November 1st, 2004, the Child Welfare Act was replaced by the Child, Youth and Family Enhancement Act. The new act is more focused on the safety and best interests of children, allowing children greater voice in the decision-making process where appropriate, and more connection with the community.

Child abuse is a general term used to describe behaviour on the part of a parent or guardian that results in significant negative emotional or physical consequences for a child. Abuse of children can take several different forms, including physical abuse, emotional abuse, sexual abuse and exploitation, and neglect. Children are considered to be in need of intervention services if they are at risk of physical injury or have sustained a substantial and observable emotional injury resulting from exposure to domestic violence.

Under the provincial Child, Youth and Family Enhancement Act, a person who has reasonable and probable grounds to believe that a child is in need of intervention services must report the matter to the Director of Child Welfare or designate. It is an offence under the Child, Youth and Family Enhancement Act not to report if child abuse is suspected.

Alberta Director of Child Welfare (780) 427-6385

4.3 Protection for Persons in Care Act

The provincial Protection for Persons in Care Act protects those adults who receive services from publicly funded care facilities, including seniors lodges, nursing homes, group homes, and hospitals. It does not include adults in care in their own private homes.

The Protection for Persons in Care Act defines abuse as:

(i) intentionally causing bodily harm,
(ii) intentionally causing emotional harm, including, but not limited to, threatening, intimidating, humiliating, harassing, coercing, or restricting from appropriate social contact,
(iii) intentionally administering or prescribing medication for an inappropriate purpose,
(iv) subjecting to non-consensual sexual conduct, activity, or behaviour,
(v) intentionally misappropriating or improperly or illegally converting money or other valuable possessions, or
(vi) intentionally failing to provide adequate nutrition, adequate medical attention or other necessity of life without a valid consent;

The Act makes it mandatory for anyone who has reasonable grounds to suspect a person in care is being abused by someone in a care facility to report their suspicions to the proper authorities (see Provincial Domestic Violence Resource List section for telephone number).

Toll-free reporting line 1-888-357-9339

PPCA – Full Act http://www.canlii.org/ab/laws/sta/p-29/20061113/whole.html
4.4 Family Law Act


The province’s Family Law Act provides a clear guide on the rights of family members, and helps to settle family disputes by addressing the following issues:

- the best interests of children
- establishing parentage of a child
- roles and responsibilities of parents and guardians
- parenting orders to assist parents in caring for their children after separation
- contact with grandparents and other people who may be important to the child
- enforcing access to children
- financial support for children and former spouses, or adult interdependent partners, in situations other than divorce
- responsibility of lawyers, and the general powers of the court in addressing family disputes.

Streamlined court procedures. Under the new Family Law Act, both the Provincial Court and the Court of Queen’s Bench now share the ability to hear most matters under the Act. Both Courts will also use the same application forms and similar application procedures:

- The Court of Queen’s Bench will continue to hear all matters under the Family Law Act.
- The Provincial Court now hears all matters except: declaration of parentage, declaration of irreconcilability, and exclusive possession of property, trusts and real estate.
- Both courts may ask parties to attend programs such as “Parenting after Separation” to support families in resolving all or part of the issues before going to court. Courts may also refer families to family mediation.

The Family Law Act does not deal with: child welfare matters, such as adoption (included under the Child, Youth and Family Enhancement Act); children’s property (which is now under the Minor’s Property Act); division of the matrimonial property under the Matrimonial Property Act; divorces under the federal Divorce Act; and the definition of adult interdependent partners under the Adult Interdependent Relationship Act.

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29 Ibid, p. 3.
5.0 ADDITIONAL LEGAL REMEDIES AVAILABLE TO VICTIMS OF DOMESTIC VIOLENCE

If the police do not proceed with criminal charges, other legal remedies may be available to victims of domestic violence. These include the victim: laying criminal charges him/herself by “laying a private information”; laying an information to obtain a Peace Bond; filing for protection orders such as Restraining Orders, Emergency Protection Orders, and Queen’s Bench Protection Orders; applying for an Exclusive Matrimonial Home Possession Order; and filing civil law suits against the abusive person.

When providing information about protection orders to family violence victims, service providers need to inform the victim that a protection order is ultimately only as effective as the abusive person’s motivation to change his or her abusive behaviour and the abusive person’s likely compliance with a protection order. On balance, a family violence victim may decide that his or her safety concerns would be exacerbated rather than decreased with the imposition of a protection order.

There may also be situations when a person in an abusive situation wants to leave but does not want to leave a shared residence. If there are insufficient grounds for a criminal charge or for obtaining a civil protection order and the abusive spouse or partner refuses to leave, the victim has no legal remedy until separation occurs. The victim in this situation needs information and emotional support. Information provided needs to cover many areas: (1) safety planning; (2) financial help; (3) short-term and longer-term housing options; (4) community counselling support resources; and, (5) legal rights surrounding property interests, separation, divorce, custody and access, and child and spousal support.

5.1 CRIMINAL ASSAULT CHARGES – “LAYING A PRIVATE INFORMATION”

A domestic violence victim may independently “Lay a Private Information” if the police decline to charge an alleged abusive person with an offence under the Criminal Code of Canada. The victim may apply to the Provincial Court (Criminal Division) and provide information regarding the alleged criminal offence. In Calgary, the applicant goes to District 1. A Justice of the Peace (JP) hears the victim’s evidence and decides if there are reasonable and probable grounds to lay a charge. If the JP allows the charge to proceed, the JP forwards the information to the Crown Prosecutor’s Office which then decides if there is enough evidence to proceed with the charge. If the Crown Prosecutor’s Office decides to proceed, it issues a summons for the accused who must then appear before the Provincial Court (Criminal Division) to enter a guilty or not guilty plea after which the case proceeds through the criminal system.

5.2 PEACE BONDS (CRIMINAL)

In domestic violence situations, the Criminal Code of Canada permits a family member to apply for a Peace Bond against another family member (usually a spouse or intimate partner) where grounds exist to believe that the abusive family member will cause injury to, damage the property of, or injure the applicant family member. A Peace Bond is an order that requires someone to “keep the peace” and to obey any other conditions that the court places on the order. “Keeping the peace” means that the person has to stay out of trouble and must not get
charged with any criminal offences during the term of the Peace Bond. The court must consider the inclusion of certain terms respecting the provision of firearms, ammunition or explosives, non-attendance at certain premises and non-communication between the family members.

The victim does not need a lawyer to obtain a Peace Bond and there is no application fee. The applicant must report to the police and indicate why he or she has safety concerns. The police supply a file number and the applicant must attend the local Provincial Court (Criminal Division) to arrange for an appearance before a judge or Justice of the Peace (JP). The applicant gives evidence under oath and if the judge or JP decides there are sufficient grounds to justify a Peace Bond, the judge or JP will set a court date, issue a court summons for service upon the respondent and send a copy of the applicant's information to the Crown Prosecutor's Office.

If, at the court appearance, the respondent disputes the issuance of a Peace Bond, the court sets the matter down for a hearing which a Crown Prosecutor will conduct. The applicant must give evidence again and may have to answer questions from the respondent or from the respondent's lawyer. This process can take several months so has limited utility in urgent domestic violence situations. If the abusive person does not appear in court, the Peace Bond hearing may proceed ex parté. An ex parté hearing occurs when the court proceeds in the absence of one of the parties.

The victim will have to give evidence that indicates that he/she believes the person is a threat to his/her safety and/or his/her children's safety. The court will require evidence in order to justify restricting the liberty of another person. It will be helpful if the victim has kept a record of the abusive incidences, as well as any police, medical or counselling records. The victim should also consider whether there are any witnesses who could assist him/her in providing evidence.

In some circumstances the abusive person’s family and friends have also harassed the victim. It is possible to have them included on the Peace Bond as well with proper evidence and proper notice.

In many cases of domestic violence, a Peace Bond will contain a condition that requires the accused to report to probation authorities as required. If there is such a condition, it is important for the victim to determine who the probation officer is and to maintain regular contact with the probation officer for their own safety.

A Peace Bond can be ordered for up to 12 months. At the end of the Peace Bond period, an applicant wanting another Peace Bond must make a new application based on current evidence. Upon application by either party, the court may vary conditions of or remove a Peace Bond.

A current copy of the Peace Bond should be kept with the victim at all times, so that he/she can show it to the police if the order is violated. If the accused person refuses to sign the bond, he or she can be put in prison for up to one year.

30 If the victim is living with the abusive person, a Peace Bond is not appropriate. It would be difficult to prove fear of personal injury in such a case, although Peace Bonds are sometimes used in these circumstances in any event.
Violation or Breach of a Peace Bond

A violation or breach of a Peace Bond is a criminal offence for which the offender can be arrested and charged. The applicant has the onus of reporting a Peace Bond violation (breach) to the police or to the respondent’s assigned probation officer. The victim should keep records of the breaches with descriptions of the harassing behaviour and report it to the police immediately. **If the police are not informed of the breach, the Peace Bond is useless.** The police will swear an information before a judge. The victim will not have to swear the information him/herself, as was done when the Peace Bond was originally requested.

While the Peace Bond is not a criminal charge, a breach is a criminal charge and the accused must enter a plea of guilty or not guilty. Upon conviction of breach of a condition, under the Criminal Code of Canada, the accused is liable to imprisonment for up to two years.

A Peace Bond is only effective if the abusive person obeys it. Having a protection order may discourage the abusive person from further threats or assaults. It does not guarantee the physical safety of the victim. Therefore, it is extremely important that the victim also develops a plan to address her or his own safety needs.

5.3 RESTRAINING ORDERS (CIVIL)

The purpose of a Restraining Order is to restrain a person or persons from engaging in abusive activities such as assault, property damage, threats to harm or kill, harassment, and stalking. A Restraining Order is a civil court remedy and, unlike No Contact and No Go release conditions, does not flow from a prior criminal charge.

A domestic violence victim may apply, with or without a lawyer, to a Court of Queen’s Bench in his or her jurisdiction during regular court hours for a Restraining Order. It can be a separate application or part of another application such as a divorce. While legal representation is desirable, frequently a person requiring a Restraining Order in a domestic violence situation needs immediate protection and may have neither the time nor the money to hire a lawyer. Recognizing that a lawyer’s application may take several days because a lawyer must make the application by originating notice (Statement of Claim) and comply with the rules of Court, the court provides an expedited procedure for the unrepresented applicant (not having a lawyer) whereby he or she can complete a Restraining Order application in several hours. In some areas, there are services to assist the victim to obtain a Restraining Order quickly and at little or no cost.31

**Expedited Procedure**

The expedited procedure is free of charge and allows the unrepresented applicant to apply on a “no notice” or Ex Parte basis for a temporary Restraining Order. The “no notice” provision is important because giving notice to the respondent can put an applicant at increased risk of harm.

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31 For example, the Court Preparation and Restraining Order Program and the Family Law Information Centre in Calgary provide assistance.
The expedited procedure uses a “Restraining Order Package” (Ex Parte Application for a Restraining Order in a Family Law Situation) which provides clear and concise instructions and the claimant can complete the forms in longhand. The applicant must complete a “reason for requesting a Restraining Order” form and provide sufficient information to support the application. The “Package” includes a standard Restraining Order with a standard set of prohibitions and directions which must be included in every Restraining Order granted in Alberta. The Ex Parte Restraining Order contains no contact and no go conditions and an enforcement clause which enables the police to arrest the respondent for a Restraining Order violation.

**Court appearance** - After completing the “Restraining Order Package”, the applicant presents his or her case before a Justice (judge) of the Court of Queen’s Bench. In some jurisdictions, Duty Counsel is available to assist the applicant. An Ex Parte Restraining Order instructs the absent respondent how to respond (by sworn affidavit) at the review which occurs three weeks later.

**Serving the documents** - The court provides the unrepresented applicant with certified copies of the Ex Parte Restraining Order and an Affidavit of Service. The applicant must file a copy of the Ex Parte Restraining Order with the court and is responsible for serving the respondent with a certified copy of the Ex Parte Restraining Order. The respondent must be served because he or she was not present at the application and therefore does not know about the Ex Parte Restraining Order. The respondent is “served” if he or she personally receives a certified copy of the Ex Parte Restraining Order and the Reasons.

**Process server** - Since it would be unsafe for the applicant to serve the respondent, where possible the applicant should hire a Process Server to serve the respondent. The cost of hiring the Process Server is usually the only cost the applicant incurs. Sometimes the police or RCMP will assist with serving an Ex Parte Restraining Order upon the respondent. If the respondent evades service or personal service is unrealistic, the court may grant another court order for substitutional or non-personal service, or, throw out service altogether. An order for substitutional service could be an additional expense.

**Filing the Affidavit of Service** - The applicant must then file the completed Affidavit of Service with the Court of Queen’s Bench and provide the police or RCMP with copies of both the Ex Parte Restraining Order and the filed Affidavit of Service. If it is not registered, the police will not know a Restraining Order exists, as well as what the conditions are and, therefore, will not be able to enforce them as quickly.

**Police enforcement** - Upon receiving a filed copy of the Affidavit of Service and a copy of the Ex Parte Restraining Order, the police or RCMP enter the information on their Canada-wide Canadian Police Information Centre (CPIC) computer system. The police or RCMP will enforce an Ex Parte Restraining Order only if they have proof that the respondent is aware of the order. If the respondent resides out-of-province, in most cases there is no point in obtaining a Restraining Order because there are no reciprocal interprovincial agreements for enforcing Restraining Orders. Persons coming to Alberta with a Restraining Order obtained in another province must reapply in Alberta and meet all of the foregoing requirements.

**Review** - Upon review, the court can confirm, remove, or vary the Ex Parte Restraining Order. Confirmed or varied Ex Parte Restraining Orders become regular Restraining Orders and are usually in force for periods of three months, six months, or a year. Sometimes there are
adjournments and, at each new court date, the court will provide a new Restraining Order which the applicant must serve upon the respondent and the police.

**Attending the review** - The unrepresented applicant should always attend court for the review date (or arrange for a representative) because (1) if neither the applicant nor the respondent appears, the court may strike (not hear) the matter and the Ex Parte Restraining Order will no longer be in effect; or, (2) if there is an adjournment that neither the applicant nor the respondent knows about, the Restraining Order could still be in effect without their knowledge and lead to unintended breaches.

A Restraining Order can be put into effect quite quickly – often within 24 hours of meeting with a lawyer or getting help from a community agency. It is usually ordered for a duration of three or six months, but can be renewed when it expires. When a Restraining Order expires, the applicant wanting another Restraining Order must make a new application with current supporting evidence. In very exceptional cases, with evidence of need, a Restraining Order can be permanent.

After the court confirms an Ex Parte Restraining Order, if the applicant and the respondent want it removed or varied, the applicant may make application by Notice of Motion with an accompanying Affidavit and Consent Order for the court’s consideration. The respondent may also appeal within the prescribed period.

A Restraining Order can also be issued against more than one person. As with a Peace Bond, the court will require notice and evidence in order to justify restricting the liberty of another person(s). Again, it will be helpful if the victim has kept a record of any incidences, or any police, medical, or counselling records.

A current copy of the Restraining Order should be kept with the victim at all times so that she or he can show it to the police if the order is violated.

**Costs Incurred**

The cost may depend upon who is doing the work for the victim and whether the Order is part of another action, such as divorce or assault. If the victim is applying for a Restraining Order him/herself, there may be no court fees, but a process server will be required to serve the Order to the abusive person. If the abusive person is difficult to locate, this can become expensive. It is possible to ask for a second Court Order allowing the Restraining Order to be substitutionally served or to have service thrown away all together, but this too is an additional expense.

Community legal clinics may serve the accused with the Restraining Order, saving the victim from the expense of having to do so.

**Violation or Breach of a Restraining Order**

A violation or breach of a Restraining Order can only be dealt with through the court’s power to apply a civil sentence. Although section 127 of the Criminal Code does apply to violations of Court Orders, the Criminal Code is not used in Restraining Order breaches. The victim must report the breach to the police, complete a witness statement for the police and be prepared to attend Court when the respondent is arrested. The Court of Queen’s Bench may cite the

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32 Counselling records of both the victim and the accused can be helpful.
respondent for civil contempt and the punishment could include jail or a fine with a jail term if the fine is not paid. The victim must pay for their lawyer to attend Court when a Restraining Order has been violated.

**Same-Sex Relationships**

Although anyone can apply for a Peace Bond or a Restraining Order, individuals involved in same-sex relationships may choose not to apply for protection orders. Applying for a protection order would mean those individuals would have to disclose their sexual identity in open court. Protection orders are public documents and, therefore, victims involved in same-sex relationships may be cautious in applying for these orders. It is possible to ask the Justice for a Court Order sealing the file so that it is entirely confidential.

**Peace Bond vs. Restraining Order?**

The particular order that the victim will apply for will likely depend upon what other kinds of assistance he/she is seeking from the courts. A Restraining Order is given by a civil court while a Peace Bond is given by the Criminal Court. If you are already dealing with one court, then it is appropriate to apply for either of these orders under that same court. The Peace Bond should contain a term preventing contact with the victim, if possible.

**Peace Bonds and Restraining Orders must be worded very carefully to ensure that the victim receives the needed protection.** Some important things to remember include:

- the Restraining Order should state that the police will make an arrest if the respondent does not follow the conditions in the order, not that the police “may” make an arrest;
- the Peace Bond or the Restraining Order should include all of the places that the respondent may try to contact the victim, for example the victim’s home, place of work, and anywhere else the victim spends time on a consistent basis. If the Peace Bond or Restraining Order does not allow the respondent to contact the victim’s children, it is important that the schools and/or daycares also be listed. The respondent can also be prohibited from contacting the victim by telephone or mail;
- if the respondent is going to have visitation times with the children, the times that he or she is able to see the children should be clearly outlined in the protection order. The victim may also want to ensure that there are supervision requirements in place during the visits between the respondent and the children.

**5.4 EMERGENCY PROTECTION ORDERS (CIVIL) (Protection Against Family Violence Act)**

The purpose of an Emergency Protection Order (EPO) is to address the immediate safety of family violence victims. It is not a criminal charge but provides legal protection to victims. It orders the violent family member to stay away from affected family members and the residence thereby allowing the family violence victim to remain in the home if it is safe to do so.

An Emergency Protection Order (EPO) can provide immediate protection to victims of domestic violence, and has more power that a Restraining Order or Peace Bond, since additional terms can be added.
The claimant (family violence victim) must apply to a Provincial Court (Family Division) judge or
to a Justice of the Peace (JP) for an EPO. The EPO is an Ex Parte (no notice) application for
which there is no court fee. In urban areas, where Family Court holds regular sessions, most
applications occur during regular court hours before a Family Court judge. In rural centres
where Family Court sits less regularly, the RCMP and Children’s Services workers are more
likely to apply for an EPO via telecommunications to a JP.

An EPO can be obtained 24 hours a day, 7 days a week, through the combined services of
Family Court judges and JPs. PAFVA states that an EPO can be for any period not exceeding
one year and that an EPO may include any of the following provisions:

1. restraining the respondent from attending at or near or entering any specified place that
   is attended regularly by the claimant or other family members;
2. restraining the respondent from communicating or contacting the claimant and other
   specified persons;
3. granting the claimant and other family members exclusive possession of the residence
   for a specified period regardless of ownership or leaseholders;
4. directing a peace officer to remove the respondent from the residence immediately or
   within a specified time;

**EPO Application Process**

**Eligibility** - PAFVA states that the following persons can apply for an EPO:

1. a person who claims to have been the subject of family violence by a family member;
2. any person, with the leave of the judge, on behalf of a family member who is subjected
   to family violence by another family member; and
3. police officers or Children's Services caseworkers acting on behalf of and with the
   permission a family member subjected to family violence by another family member.

Since there is no age limit, a child (represented by a Guardian ad litem) can apply for an EPO
and a family member or other designated person can apply for an EPO against a child.
Children's Services would probably become involved if a child was the subject of an EPO.

**Criteria** - PAFVA states that a judge or JP considering an EPO application must determine
three things:

1. that family violence has occurred between family members;
2. that the claimant has reason to believe that the violence will resume or continue; and
3. that the seriousness or urgency of the situation requires an Order to provide immediate
   protection of the claimant and other family members who reside with the claimant.

PAFVA states that a judge of JP may not refuse to grant an EPO because the following factors
exist:

1. the respondent is temporarily absent from the residence at the time of the application for
   the order;
2. the claimant is temporarily residing in an emergency shelter or other safe place;
3. criminal charges have been laid against the respondent; or
4. the claimant has a history of returning to the residence and of residing with the
   respondent after occurrences of family violence.
PAFVA states that a judge or JP must also consider:

1. a history of family violence;
2. the controlling behaviour by the respondent towards the claimant and family members;
3. repetitive and escalating family violence;
4. immediate danger to persons and personal property;
5. vulnerability of elderly claimants; and
6. the effect of family violence upon children.

**Application** - At Family Court, the EPO application process is user friendly with an “EPO Package” which provides clear and concise instructions and the claimant may complete the forms in longhand. The claimant can have legal representation and in some jurisdictions there is an EPO Duty Counsel hired by Legal Aid to screen EPO applications and assist the claimant. After completing the “Package”, the claimant appears before a Family Court judge and may give oral evidence. If a claimant’s application satisfies the legislative requirements for an EPO, the judge may grant an EPO. Because it is a no notice application, the EPO is usually for a brief period but can be for a maximum of one year. PAFVA states that an EPO must be reviewed within nine working days at a Court of Queen’s Bench. The EPO advises the respondent of the review date and provides instructions regarding the response format to which the respondent must adhere. Completing the “Package” and appearing before a judge may take several hours depending upon the volume of scheduled court cases.

**Serving the EPO** - When a Family Court judge or a JP grants an EPO, the police or RCMP give a copy to the claimant and they are also responsible for serving the EPO upon the respondent (abusive family member). The respondent is “served” when he or she personally receives a copy of the order. The EPO is enforceable once it is served upon the respondent and when the respondent is ordered to leave the home, the police or RCMP facilitate the respondent’s removal. The respondent, with a police or RCMP escort, may subsequently attend his or her residence for a brief period to remove his or her personal possessions.

**EPO review** - PAFVA provides for the claimant to have free legal representation, provided by Legal Aid, for the EPO review at Court of Queen’s Bench. If the respondent opposes the EPO, he or she can ask Duty Counsel for assistance at the review. If there are additional EPO hearings, the respondent, falling within Legal Aid financial guidelines, qualifies for Legal Aid representation. Otherwise, the respondent must make independent arrangements for legal representation. Upon review, the court may:

1. confirm the EPO, in which case it becomes an Order of the Court of Queen’s Bench and would continue with the same conditions for the length of time ordered by Family Court;
2. revoke the EPO;
3. revoke the EPO and grant a Queen’s Bench Protection Order; or
4. direct an oral hearing.

Legal Aid supplies the claimant free legal representation usually only for the first confirmation hearing. If there are additional hearings, the claimant would need to make a separate Legal Aid application or hire other legal counsel.

If both the claimant and the respondent want an EPO removed or to have its terms varied, they can speak to this at the EPO review or, at a later date, apply for a review by filing a Notice of
Motion and a supporting affidavit. If, after the confirmed EPO expires, the claimant wants another EPO, the claimant must apply at Family Court with current supporting evidence.

**An EPO is not a replacement for criminal charges.** The police will still lay charges under their mandatory charging policy if there is enough evidence of a crime, regardless of the wishes of the victim. An EPO can be issued even if criminal charges have not been laid.

An EPO may be insufficient in cases where the respondent has a history of severe violence and mental instability. If the respondent is unlikely to obey the order, the police may not be able to protect the claimant. The claimant should make plans for his/her safety and should consider accessing an emergency shelter. In exceptional circumstances, police may be able to arrest the respondent under the terms of the *Mental Health Act*.

### 5.5 QUEEN’S BENCH PROTECTION ORDERS (CIVIL) *(Protection Against Family Violence Act)*

A Queen’s Bench Protection Order (QBPO) provides long-term protection for victims of domestic violence. PAFVA describes a Queen’s Bench Protection Order (QBPO) as a longer-term protection order containing all of the provisions of an EPO plus additional provisions. The *Protection Against Family Violence Act* also allows the victim to apply for protection orders directly to the Court of Queen’s Bench. The victim may appear before the court without legal representation in this situation. The court may also give permission for the victim to be represented by someone other than a lawyer in this case. However, obtaining a lawyer would be helpful in suggesting what terms should be included in the QBPO, and when serving the respondent with a copy of the order. Victims can hire a lawyer privately, or obtain counsel through Legal Aid via the Court Preparation and Restraining Order Program in Calgary (see *Provincial Domestic Violence Resource List*).

The Court of Queen’s Bench may grant a QBPO in three ways:

1. by confirming an EPO which becomes a QBPO with no additional terms and stays in place for the original time ordered;
2. by revoking an EPO and replacing it with a QBPO which could have additional provisions; or
3. after direct application to the court.

**Additional Provisions**

It is important that the claimant asks for any special conditions they may wish to have included in the QBPO. Special conditions must be granted by a judge or Justice of the Peace.

PAFVA states that the additional provisions may include:

1. ordering the respondent to reimburse the claimant for monetary loss suffered by the claimant and any child of the claimant or other child in the care of the claimant for monetary losses resulting from the family violence. Such monetary loss could include loss of earnings or support, medical and dental expenses, moving and accommodation expenses, and legal expenses;
2. deciding who can temporarily possess specified personal property such as a vehicle, cheque book, bank cards, children’s clothing, medical insurance cards, identification documents, keys, and other personal effects;
3. restraining either party from taking, converting, damaging, or otherwise dealing with property that the other may have an interest in;
4. requiring the respondent to post a bond appropriate for securing the respondent’s compliance with terms of the Order;
5. ordering counselling for the respondent; and
6. ordering counselling for a child without the consent of the respondent.

Direct application - A family member may apply directly to Court of Queen’s Bench for a QBPO and must do so by originating notice (Statement of Claim) with a supporting affidavit and adhere to the Rules of Court. This means that the application may take several days and the review conditions for an EPO do not apply. For a direct application, the claimant should retain a lawyer.

Serving the QBPO - Like an EPO, a QBPO is effective only if it is personally served upon the respondent and registered with the police or RCMP. If the QBPO flows from an EPO, the Legal Aid appointed lawyer is responsible for service of the QBPO upon the respondent and registration with the police or RCMP. Otherwise, the claimant would be responsible for all service requirements.

A Queen’s Bench order can be ordered for up to one year and a claimant wanting to extend a QBPO must make a new application with current supporting evidence.

If the claimant and the respondent want a QBPO removed or to vary its terms, either party can apply by Notice of Motion with a supporting affidavit and a Consent Order for the court’s consideration.

Violation or Breach of an Emergency Protection Order or Queen’s Bench Protection Order

If the respondent breaches the Emergency Protection Order or the Queen’s Bench Order, the claimant should contact the police immediately. Breaching either protection order is an indictable offence and is enforced under section 127 of the Criminal Code, even though they are civil orders. Anyone found guilty of disobeying a protection order may be imprisoned for up to two years. In addition, a person who disobeys a court order may be cited for civil contempt by the Court of Queen’s Bench. Punishment could include incarceration or a fine with a jail term, if the fine is not paid. The claimant is responsible for informing the police or the court if an order has been breached. The penalties do not apply to the breach of an order where the order says that money must be paid. That matter will be dealt with by the Maintenance Enforcement Program (see Provincial Domestic Violence Resource List).

If the claimant allows the abusive person back into the home, the respondent may have technically violated the order, regardless of the circumstances of entry. However, the circumstances of the violation might make it difficult for the law to enforce the protection order. Furthermore, voluntary contact by the claimant may make it harder for him/her to obtain a protection order in the future.
The claimant has the responsibility for notifying schools, day cares or others that an EPO or Queen’s Bench Protection Order is in effect.

If the respondent is a family member, the terms of a protection order may apply, even if he/she is a minor.

The need for a protection order may also mean that one or more children are in need of protective services. In such instances, Child Welfare must be notified.

When there are children in the home and a judge or Justice of the Peace (JP) grants a protection order with a no contact condition, there are custody and access issues for the victim parent:

1. If the no contact condition prohibits the abusive person from contact with both the victim parent and the children, frequently the judge or JP will include a clause stating there will be no direct or indirect contact with the children “unless subsequently ordered by another court”. This opens the door for the abusive parent to make a family law application for custody and/or access to the children. If the victim parent believes that contact between the children and the abusive parent will jeopardize the children’s safety, the victim parent should immediately make an Ex Parte family law application for sole guardianship, for the daily care and control of the children, for specified or no parenting time for the abusive parent, and for a police assistance clause to enforce the terms.

2. If the no contact condition prohibits the abusive parent from contact with both the victim parent and the children but there is not a clause providing for variation by a court order from another court, the prudent victim parent not wanting the abusive parent to have contact with the children, should apply for a family law order providing him or her with sole guardianship, the daily care of the children and specified or no parenting time for the abusive parent. This protects the victim parent when the no contact condition expires or is terminated.

3. If the no contact condition applies to the victim parent but not the children, frequently the judge or JP will include a variation allowing the victim parent and the abusive parent to have indirect contact to arrange child visitation. The victim parent believing contact between the children and the abusive parent is not in the children’s best interests, may want to apply for a family law court order providing him or her with sole guardianship, daily care and control of the children, and specified or no parenting time for the abusive parent. The victim parent could also consider applying for a Restraining Order.

5.6 WARRANT PERMITTING ENTRY
(Protection Against Family Violence Act)

Under PAFVA, a Warrant Permitting Entry is used when a Family Court judge or JP is satisfied by information under oath that there are reasonable and probable grounds to believe that the person seeking the warrant has been refused access to a family member and the family member may have been a subject of family violence and will be found at the place to be searched. A Warrant Permitting Entry allows a police officer to enter a location named in the
warrant to search for, assist, or examine a family member, and, with the family member’s consent, remove the victim for his or her safety. A Warrant Permitting Entry can be quickly granted by a judge or JP over the phone.

5.7 EXCLUSIVE HOME POSSESSION ORDER

If the victim is married to the abusive person, she or he may be able to get an Exclusive Home Possession Order for the matrimonial home under the Matrimonial Property Act. An Exclusive Home Possession Order can only be obtained under the Matrimonial Property Act if the couple is legally married. An Exclusive Home Possession Order requires one spouse to leave the family home and prohibits him or her from entering the home or being near the home for a specific period of time. An Exclusive Home Possession Order can be obtained for either a home that is owned or one that is rented. The order may also give the victim possession of the furniture in the home and the family vehicle under some circumstances. **Even if an Exclusive Home Possession Order has been granted, the victim may still want to obtain a Restraining Order because the Exclusive Home Possession Order only protects the victim in and around the home.** The Order does not stop the abusive person from contacting the victim by phone or by any other means outside the house.

The abusive person’s right of ownership may be suspended (i.e. so he/she cannot sell), and so may the victim’s right of ownership. An Exclusive Home Possession Order deals with the right of possession – not right to ownership. The abusive spouse may also be ordered to pay the rent or mortgage.

If there is no urgency and an applicant proceeds under the Matrimonial Property Act, the cost for the Exclusive Home Possession Order will usually be between $500.00 and $1,000.00; it may be higher if the application is considered to be complex. The services of a lawyer should be obtained when making a request for an Exclusive Home Possession Order, as the legal procedures can be complicated.

After an application for an Exclusive Home Possession Order has been made, the abusive person will be notified that a court hearing will take place and he or she will be given the opportunity to oppose the order. In rare cases where there appears to be an immediate threat of violence, the court may make the Order without notice of a hearing being given to the abusive spouse. The court will consider the: availability of other accommodations for both spouses; needs of the children; financial circumstances of the spouses; and the conduct of the two spouses if the court finds this to be a factor.

It is unlikely that the victim will be able to obtain an Exclusive Home Possession Order if the children will not be remaining with him/her and there has not been any violence. The court will always try to take into consideration the interests of the children, attempting to ensure care that is as close to normal as possible. The victim should keep a copy of any court order with him/her if he/she wants the police to enforce it.

**If the victim invites his/her spouse onto the property, it is a breach or violation of the order. The police may be wary to enforce the order when the individual who has breached the order is whom it is intended to protect.** The Order is no longer in effect only in the case that the term of the Order has lapsed, or a second Order is given by a Justice, ending the first Order.
An unmarried person similarly removed from property in which he or she has a legal interest, may apply to Court of Queen’s Bench for a court order terminating co-ownership and then proceed to sell his/her share of the property and take his/her share of the money.

**Same-Sex Relationships**

At this time, Exclusive Home Possession Orders pursuant to the *Matrimonial Property Act* do not apply to same-sex couples.

A possible long-term solution for the same-sex victim, if he or she owns part of the property, is to make an application to Court for an order terminating co-ownership. This will allow the person to sell the property and take his or her share of the money. Once one has his or her money, he or she can move out of the home. This route is expensive and time consuming.

**Aboriginal Persons**

If a victim is living on a reserve, he/she may not be eligible for an Exclusive Home Possession Order. On First Nations’ reserves, individuals are not to own land or their residences. To make EPO and QBPO “property” provisions applicable, the reserve’s Band Council must adopt a permitting bylaw.

**Concurrent protection orders**

There are times when two different protection orders may be in place at the same time. For example, the Court of Queen’s Bench can grant a Restraining Order when a No Contact/No Go release condition exists from a criminal charge. This situation is likely to occur when the respondent repeatedly breaches No Contact and No Go release conditions but the police do not charge the respondent with a breach. Also, a family violence victim could obtain an EPO and then report the same incident to the police who then lay a charge following which release conditions include No Contact and No Go conditions.

**5.8 CIVIL ACTION**

Not all forms of domestic violence (e.g. psychological, financial) are recognized as criminal offences under the *Criminal Code*. The victim can sue the abusive person, regardless of the nature of the relationship, with a civil action for assault, harassment or sexual assault, to name a few civil violations. The victim should contact a lawyer to discuss his/her chance of success and the likelihood of recovering damages if the victim decides to sue.

A victim can also try to recover funds and claim damages in a civil action for breach of contract, intentional infliction of harm (including psychological), or civil fraud and theft.

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33 If there are care giving and other contractual relationships not involving spouses, the victim may be able to press charges for theft or fraud.
Seniors Experiencing Neglect

The *Maintenance Order Act* covers liability on behalf of seniors. It can be applied in a number of circumstances. The *Act* could be enforced in the case of a poor elderly senior and a child with resources. The senior could sue the child for support. It could also be used in cases of financial abuse, where money wrongfully taken by a child has left the elderly person in a financial hardship.

5.9 COMPENSATION FOR VICTIMS

Victims of violent crimes may be eligible for financial assistance to pay for some expenses that are the direct result of violent crimes through the Victims of Crime – Financial Benefits Program (see *Provincial Domestic Violence Resource List*). To be eligible, both the crime and the injury must have occurred in Alberta. The crime must be reported to the police within a reasonable period of time and the application must be made to the Victims of Crime – Financial Benefits Program within one year of the injury. Victims must also assist the police in their investigation, as well as in identifying and prosecuting the offender. In some instances, the victim will have to consent to a medical examination and allow the Board to make any necessary investigations to ensure that the victim’s statements are true.

The victim should keep all receipts for costs related to the injury. He/she will also need proof of any loss of income (i.e. income tax returns, pay stubs, and letters from employers).

The victim will only receive payment for expenses or lost wages that are the *direct result* of the injury. No payment is given for pain and suffering or disfigurement, except in rare circumstances where the injury happened during the prevention of a crime or if participating in making an arrest.

6.0 OTHER CONSIDERATIONS FOR VICTIMS OF DOMESTIC VIOLENCE

When an individual leaves an abusive relationship, he/she may have to consider other important issues. For instance, the victim may be concerned about what will happen to his/her children and property. Victims may also want to obtain financial support from their abusive spouse or partner. These issues are considered family law issues and fall under the civil law system.

Family law applies to both married spouses (husbands and wives) as well as common-law spouses. If the couple is not married, but have lived together or have a child together, they have rights recognized under Family law like married persons. Same-sex couples are afforded every remedy available to opposite sex couples by the Court. However, some legislation such as the *Matrimonial Property Act* do not apply to same-sex couples and so their lawyers must use other legal remedies.

The civil (family law) system settles private disputes between people in family relationships. Both spouses can hire lawyers, and can try to settle the matter through negotiation or mediation. Failing that, the parties can go to court and have the matter settled by a third party: the judge.
Family law can be very complicated, especially in matters of property, financial support, custody, and divorce. A lawyer can assist the victim to understand the options available. For those who cannot afford a lawyer, legal services may be obtained through Legal Aid or a community legal service.

6.1 LEGAL ISSUES

6.1.1 LEGAL AID

Legal Aid provides legal services based on financial eligibility, which is determined through a review of an applicant's income and assets. Legal Aid is not free. Individuals who receive Legal Aid will likely experience some cost. The fees paid to lawyers by the Legal Aid Society are considerably less than private fees because lawyers who accept Legal Aid cases do so at a lower fee rate. When the case is finished, the Legal Aid Society will normally seek repayment for the applicant.

If it is difficult for the individual to make the repayment, the Legal Aid Society usually will negotiate terms, which will allow the person to repay the loan without putting too much pressure on her/his resources. The individual may be asked to provide some sort of security for repayment, such as signing a promissory note.

Aboriginal Persons

Victims of domestic violence who are Aboriginal and living on First Nations reserves may have other considerations impacting how they deal with violent situations. For instance, if a victim leaves a reserve, he/she may lose social and/or economic supports normally available through federal funding. It is important that the victim discuss the implications of leaving the reserve with a knowledgeable Aboriginal resource person and/or with a lawyer knowledgeable in First Nations legal issues.

6.1.2 SEPARATION

Separation by Agreement

A formal Separation Agreement allows two individuals to agree between themselves the issues of custody, access, support, and the division of property, without going through costly and lengthy court battles. The agreement must be in a form that is legally binding (each must have signed the agreement in front of a different lawyer) and can be enforced in court if either person refuses to carry out their obligations.

In Alberta, to be considered official, the Separation Agreement requires that the couple has separated and that there has been a “marriage breakdown”. The Agreement is only binding if the individuals have had independent legal advice in the establishment of an Agreement, and both parties and their lawyers have signed the document outlining what was agreed upon.\(^{34}\)

A Separation Agreement does not end the marriage. Instead, it is a contract that decides the terms of custody and access, child and spousal support, the division of property, etc. Since it is an important legal document, assistance from a lawyer (independent from the spouse’s lawyer) is required. Without independent legal advice a Separation Agreement is usually not enforceable by law\(^{35}\).

**Judicial Separation/Declaration of Irreconcilability**

If the parties do not wish to divorce, one party may apply to the court for a declaration of irreconcilability. The court may declare that the spouses or adult interdependent partners have no prospect of reconciliation with each other. This is not the same as a divorce and the marriage is not over but the relationship is effectively at an end once the court has so declared.

Unless there is good reason to stay married (i.e. religious, cultural, economic), most parties choose a divorce since costs can be significantly higher if they get a separation first and then go on to a divorce.

**Family Court Proceedings**

Sometimes spouses who separate are undecided if they want to divorce or just stay apart permanently. In these cases, spouses can obtain a Family Court order once they are living apart. The order decides custody, access, and support for the time the two individuals are apart. Although the Family Court system often hears matters when the parties have had no legal advice and do not have a lawyer, parties should be careful not to agree to court orders in which their rights or position may be ignored. Children, money, and property issues can be complex; it is not wise to agree to an order without legal advice.

**Immigrants and Newcomers**

If the abusive partner sponsored the victim into Canada or if the victim sponsored the abusive partner, the separation may have immigration consequences if the victim does not have permanent resident status. If the victim does have permanent resident status, he/she will not be deported\(^{36}\).

**6.1.4 Alternate Dispute Resolution (ADR)**

Alternate Dispute Resolution is an out-of-court method to solve disputes. This method may be much less expensive and faster. A victim should consider carefully before he or she engages in ADR (mediation is a form of ADR) as victims are often unable to advocate on their own behalf and can easily be further victimized in this process. An argument in favour of ADR is that it can give the parties more control over the outcome than if a judge were making a decision about their problems.

\(^{35}\) Ibid.
\(^{36}\) Personal interview with Lynn Gaudet, Certified Canadian Immigration Consultant. 10 Aug. 2007. For more information, please refer to the following website: http://www.swc-cfc.gc.ca/pubs/pubspr/0662296427/index_e.html.
Mediation

Mediation is the most widely available form of ADR. The provincial court offers a mediation service. Spouses are often referred to mediation by their lawyers. A mediator assists the couple in arriving at an agreement about custody and access issues. In cases of domestic violence, mediation may be inappropriate and unsafe for victims. Abuse in intimate relationships poses serious safety risks and may significantly reduce a person’s ability to mediate. If mediation is selected, victims must ensure that the mediator has experience and is well informed of the dynamics of abusive relations. Lawyer-assisted mediation is also possible, where both parties are present and both parties also have counsel present.

If parties have children under the age of 18 and the gross income of one of the parties is less than $40,000 per year, mediation services are provided at no cost by the Government of Alberta. Some benefits of mediation can include preventing children from getting caught in the middle of the dispute, improving negotiation and communication skills between the parents, and consideration of each family’s individual needs and interests. Mediation is confidential. If there has been abuse in a relationship, very careful consideration must be given before entering into the mediation process.

6.1.5 DIVORCE

Divorce is the legal dissolution of marriage. Divorce procedures can become complicated if one partner opposes the divorce, or if the spouses cannot come to an agreement over support or custody. It is recommended that people considering divorce consult a lawyer.

Grounds for Divorce

To get a divorce a husband or wife must have a lawful reason (sometimes called “grounds”) for ending the marriage. A most common ground of divorce is marriage breakdown which is shown by the parties having lived separate and apart for one year.

Two other grounds for divorce are:

- one of the spouses has committed adultery and it has not been forgiven by the other spouse;
- one of the partners has put the other through cruel treatment, whether physical or mental abuse, such that it is intolerable for his or her spouse to continue to live with him or her.

Either spouse can ask for the divorce or they may ask for it together. Either party can go to the court immediately after separating and start a divorce action provided they have resided in Alberta for one year. If the reason for requesting a divorce is adultery or mental or physical cruelty, the divorce action can proceed at that time. If the reason for requesting a divorce is marriage breakdown evidenced by one year’s separation, the proceedings may be started at separation – but the divorce action cannot be completed until the spouses have actually been apart for one year. Spouses can be considered to “live apart” even if they are living in the same


38 These can be found in s.8 of the Divorce Act. http://laws.justice.gc.ca/en/ShowFullDoc/cs/D-3.4///en
Violence Knows No Boundaries

house but they must meet certain conditions. A lawyer should be consulted to determine whether such spouses would be considered to be living separate and apart.

Once the divorce action is successful, the Court will render a divorce judgment. For 30 days following the judgment, either spouse can appeal. If neither spouse appeals, the divorce judgment is final and a certificate of divorce may be issued. This means that after the end of the appeal period both spouses are free to marry someone else.

Common-Law Relationship/Adult Interdependent Partners

No legal process is required to end common-law relationships unless the parties have entered into an adult interdependent partnership. If this is the case, the parties should consult a lawyer.

6.1.6 POWER OF ATTORNEY

A Power of Attorney is a legal document by which an individual (the grantor) gives someone (the attorney) authority to act on his/her behalf on financial or property matters. A Power of Attorney is valid the moment it is dated, signed and witnessed, and ends upon the death or mental incapacity of the grantor. An Enduring Power of Attorney, on the other hand, allows for the appointment of an attorney at an event in the future (for instance loss of mental capacity). In that case, the attorney is only be permitted to represent the grantor once that event has occurred.

A Power of Attorney and Enduring Power of Attorney can be useful documents in the management of an individual’s financial affairs, especially when a person ages. The authority of the Attorney must be specified in the legal document and can, for instance, include the following areas:

   a) payment of cheques, bills of exchange, promissory notes, etc.;
   b) buying or selling stocks and bonds;
   c) collecting rents, profits, commissions, etc.;
   d) managing, buying, or selling real estate;
   e) conducting business operations;
   f) selling property that is jointly owned (e.g. with a spouse).

Because a person who has lost mental capacity is at risk for abuse, it is vital that an attorney be selected very carefully. It is always a good idea to have at least two attorneys, a primary and an alternate (who can act when the primary is unable to do so.)

A Power of Attorney does not have to be drafted by a lawyer, but it is a very good idea to consult with a lawyer especially if the estate is large or complex.

6.1.7 PERSONAL DIRECTIVE

A personal directive is a legal document that names a person(s) (agent) to act on an individual’s (a maker’s) behalf and make personal decisions for that person when he/she cannot make them themselves, due to loss of physical and/or mental capacity. A personal directive deals with non-financial matters. The need for a personal directive may be short-term, such as when a serious illness leaves an individual unable to make decisions for few days. On the other hand, a personal directive may be required for the rest of a person’s lifetime.
The first obligation of the agent is to follow the instructions or wishes of the maker. In the absence of information on what the maker would have wanted, the agent will make decisions that are in the person’s best interest. The agent will be interacting with many professionals who provide residential, health care, legal or day to day services. It is important to choose agents carefully and to ask the agent first if he or she is willing to be the legal representative. When a personal directive has been completed, the agent should receive a copy, as one never knows when the agent will need to produce it in an emergency. It is wise to name at least two agents; a primary and the alternate (who can act when the primary agent is unable or unwilling to make decisions).

A personal directive does not have to be drafted by a lawyer, but an individual may choose to consult with one.

### 6.1.8 GUARDIANSHIP AND TRUSTEESHIP

If one does not have a personal directive or an enduring power of attorney, and loses mental capacity to make decisions, the family must go to court to apply to become the legal guardian and or trustee.

A legal guardian makes personal decisions (e.g. residential, health care, work, recreation, legal, etc.), whereas a trustee makes decisions about finances and property. The Court does not screen for suitability of applicants and relies on family members or interested parties to notify the judge of any concerns when an application for guardianship or trusteeship is made to the Court. Having unreliable or untrustworthy legal representatives can leave dependent adults at risk of abuse by their guardians or trustees.

The Office of the Public Guardian and the Office of the Public Trustee act on behalf of people who are deemed by the Court to be dependent adults and who do not have family or friends who are able or willing to assume legal guardianship or trusteeship.

A trustee is responsible for controlling the finances and expenses of a dependent adult and can ensure that a dependent adult has some financial protection. A trustee will pay out expenses of the dependent adult if receipts can be provided, and if the expenses are justified for the well-being of that adult.

The Court will award guardianship or trusteeship only if a person has not written a personal directive (for personal decisions) or an enduring power of attorney (for financial decisions).

### 6.2 PROPERTY ISSUES

#### 6.2.1 MATRIMONIAL HOME

As mentioned in the preceding section, if the victim is married, she or he may apply for an Exclusive Home Possession Order regarding the matrimonial home. The Order directs an abusive spouse to vacate the home for a specified period of time. The court may also further restrain the abusive spouse from entering or visiting the home if the victim requests it. The abusive spouse’s right of ownership may be suspended (i.e. so he/she cannot sell), and so may the victim’s right of ownership. The abusive spouse may also be ordered to pay the rent or
mortgage. The services of a lawyer should be obtained when making a request for an Exclusive Home Possession Order, as legal procedures can be very complicated.

### 6.2.2 PERSONAL BELONGINGS

If the victim does not want to stay in the family home or to apply for an Exclusive Home Possession Order, it is likely that he/she will want to return to the house quickly to get his/her own personal belongings. Often in the case of domestic violence, the police will go with the victim to the residence to get back basic personal belongings. There is no problem if the spouse consents. However, without that permission, he/she is advised to consult a lawyer and make an application to the courts to allow him/her to get back his/her things.

Through the *Protection Against Family Violence Act*, victims may be able to get back their personal possessions by applying for a Queen's Bench Protection Order and having a condition that orders possession of personal property to the victim. However, this does not apply to all victims of domestic violence (i.e. couples who are dating, and non-family caregivers).

### 6.2.3 DIVISION OF PROPERTY

When a marriage ends, the court assumes that each partner has an equal share in the family assets and that the property will be divided equally. The only things that do not need to be included in the division by the court are:

- i) the value of property owned at the time of marriage (excluding increase in value);
- ii) gifts specifically left to one marriage partner;
- iii) inheritances specifically left to one marriage partner;
- iv) court awarded damages;
- v) proceeds from an insurance policy.

If the victim believes that the abusive person will sell or give away some of the matrimonial property, he/she can apply (through a lawyer) for a Restraining Order which will prohibit him/her from doing so. If the abusive person has already sold or given away some of the property, the court will either order that it be returned for division or consider its value to be part of the abusive person's share of the property.

**Common-Law Relationships/ Adult Interdependent Partners**

Unlike married couples, common-law partners have no legal right to one another's property, unless they can prove they have an interest in it. Generally, the rule is that property belongs to the person who paid for it and who has registered it in his/her name.

In some situations, the common-law partner who did not pay for the property may be owed half of it if it is established that both individuals planned to share the property. In these cases, a lawyer should be contacted due to the issues’ complexity.

If the couple has bought property together and the title is in both names, then both individuals are the legal owners. Since the couple owns the property jointly, one person does not have the right to sell the property without obtaining the consent of the other person.
Aboriginal Persons

If the victim is Aboriginal, his/her right to share in family property will be determined mainly by whether or not he/she lives on a First Nations reserve. On a reserve real estate is owned by the Band; neither the victim nor the abusive partner may be entitled to it. Other property (i.e. furniture, vehicles, etc.) may belong exclusively to the partner. It is important that the victim consult with a lawyer or legal clinic knowledgeable in First Nations legal issues.

6.3 FINANCIAL SUPPORT

6.3.1 SPOUSAL AND CHILD FINANCIAL SUPPORT

Financial support or maintenance is the money that is paid by one spouse for the support of the other spouse and/or children. The applicant will have to make an application to court through his/her lawyer or use the services of the Family Court or the Family Law Information Centre.

6.3.2 FINANCIAL SUPPORT OF SPOUSES

A spouse does not automatically have a right to financial support. However, the Court may order spousal support where one spouse has suffered an economic hardship either as a result of the marriage, or a result of the marriage breakdown, and where an award of support will promote economic self-sufficiency between the spouses.

Under the Divorce Act, the amount of spousal support and when the support will end is determined by the Court. If a Separation Agreement has been drawn up, the Court will take it into consideration when deciding the amount of support to be paid. Whether or not a support order is made depends on a number factor, including the following:

- How long have the parties been together?
- What role has each of the parties played in the course of the relationship?
- Are there children of the relationship?
- What was the spouse’s position prior to the marriage and employment history throughout the relationship?
- Is the spouse employed now?
- Has the spouse seeking support given up anything in order to raise the children of the relationship?
- Does either spouse own property?
- What is the spouse’s ability to provide support?
- Does the spouse have the obligation to support someone else (i.e. children from a previous marriage, a new spouse, etc.)?
- Would it be beneficial for the spouse to stay at home to care for the children?
- Is it possible that the spouse could become financially independent and if so, how long would it take and what kind of financial support would be required?

Financial independence is one of, but not the only the goal set out in the Divorce Act when the court is considering whether to award spousal support. The financial and economic circumstances of the parties are also important. The federal government has developed spousal support guidelines which are often consulted to determine whether spousal support should be
ordered. The Court does not usually consider a spouse’s misconduct (i.e. adultery or cruelty) when making decisions around support.

The individual making a claim for support is required to prepare detailed financial statements about his/her income and expenses. The other party will also have to give the same financial information.

Common-Law Relationships/Adult Interdependent Partners

A common-law or adult interdependent partner may be legally obligated to support his/her partner if they have a relationship of some permanence. This is a complex area of law in Alberta, and a person needs legal advice to determine his/her rights and obligations.

6.3.3 FINANCIAL SUPPORT OF CHILDREN

If the parents are or have been legally married, they are both legally obligated to provide for the financial needs of their children. Financial support is used to pay for such things as adequate food, shelter, schooling, clothing, and medical treatment. Depending on the circumstances, support may include other items. A parent who fails to provide his or her children with adequate support, without lawful excuse, may be charged with an offence under the Criminal Code, the Maintenance Enforcement Act, or other Alberta child welfare laws. A parent’s responsibility for child support begins with the birth of the child and generally continues until the child is at least at the age of majority.

The Court may order child support even if one of the divorcing spouses is not the biological parent of the child. The Court considers such factors as whether the spouse intended a permanent relationship with the child and the nature of their relationship (i.e. did the child refer to the spouse as a parent, did the spouse behave as a parent to the child).

In making child support orders, the Court is required to apply the Federal or Provincial Child Support Guidelines. The guidelines assist the courts to set fair and consistent child support payments. Application of the guidelines, including monthly support plus payments for additional expenses, can be complicated to calculate. Legal advice from a lawyer or a related agency (the Family Law Information Centre) is essential. If circumstances change, either spouse can apply to amend the support order. Child support is usually a fixed sum, paid on a regular basis (i.e. every month.)

Child support is not tied to access. If a spouse does not pay support, the other spouse cannot deny access. This also means that the spouse without custody cannot deny or stop making support payments if the spouse who has custody does not give him/her access.

Financial support for the spouse and the children can be arranged by agreement between the spouses (i.e. a separation agreement). The separation agreement stipulates the amount of support that will be paid, and when the support will end. The Court will take the separation agreement into consideration when it makes the support order but if the Court believes that the support outlined in the agreement is too low or unfair, the Court will make an order correcting it. Each spouse should consult his/her own lawyer if contemplating a separation agreement.

If a married couple separates, but cannot agree on support, either spouse can apply to the Court of Queen’s Bench or to the Provincial Court, Family Division (Family Court) for a support
order. Both courts can issue an interim support order, which will remain in place either until one of the spouses applies for a new order through the Family Court or until a final order is made under the \textit{Divorce Act}. A lawyer is usually not needed in Family Court, but the Judge may suggest that the parents consult with a lawyer.

The process for getting support in Family Court is usually faster and less expensive than the Court of Queen's Bench, taking approximately six weeks. In either court, each party is required to provide disclosure of their financial circumstances in a timely fashion. In urgent situations, a Family Court hearing can be set up as soon as the next day. The procedure for getting a support order is straightforward. The spouse applying for support makes an appointment with the Family Court Counselor, who will assist the spouse to apply for support. The spouse will be required to complete an affidavit describing his/her reasons for requesting support. The affidavit will then be served to the other parent and a hearing date will be set.

At the hearing, the Court will listen to both parents, examine each spouse’s financial situation, as well as look at the needs of the children and the Federal Child Support Guidelines. The judge will then make a decision. If one of the parents does not attend the hearing, a support order may still be issued. Parents who are unhappy with the order may appeal to the Court of Queen’s Bench, in which case, it is wise to contact a lawyer. The parent who wishes to appeal must file an appeal within a short period of time, depending on the order, and a lawyer should be consulted. Generally, the Appeal Court will not alter a Judge’s decision if the only issue being challenged is the amount of support being paid, unless the appealing parent can demonstrate that the lower court decision was based on incorrect information.

A spouse who is separated can also apply for support at the Court of Queen’s Bench.

A parent paying support cannot determine how the support money is spent except to the extent that he or she has the right to have a say in the activities in which the child is involved or medical needs, etc.

\textbf{Common-Law Relationships/Adult Interdependent Partners}

Unmarried parents of children are both also expected to support their children. Applications for child support can be made either at the Provincial Court or the Court of Queen’s Bench.

If a parent is on social assistance and has custody of the child, she or he can get help with the support application from Alberta Family Social Services.

\textbf{6.3.4 MAINTENANCE ENFORCEMENT PROGRAM (M.E.P.)}

Support orders are valid throughout Canada and Maintenance Enforcement Programs (MEP) will assist in the enforcement of support orders unless the spouse receiving support chooses not to participate in or withdraws from the Maintenance Enforcement Program.

The Maintenance Enforcement Program has been given the authority to collect support. The M.E.P. can collect support directly from the payor’s wages, by taking goods, and by taking away the parent’s driver’s license for a period of time, if the parent refuses to provide support.

It is the decision of the parent receiving support payments whether the payments come directly from the paying parent, or through the Maintenance Enforcement Program. The M.E.P. does not
have any registration costs. If the custodial parent is on social assistance, she or he must register with the M.E.P. to get support. The M.E.P. can also help enforce a court order for child support if a parent is not paying under the order.

7.0 CHILDREN

Leaving an Abusive Relationship

A lawyer should be contacted before any thoughts or plans for leaving the relationship are made. If the victim has children or is the guardian of children, he or she possesses both the right and the responsibility to take them out of violent situations. If the victim is leaving a violent home, he or she should take the children with him or her. This is the best way to protect the children. If, during the crisis, it was necessary to leave the children behind, the non-abusive parent should try to get them back as soon as possible. This can be difficult.

The law states that when there is no custody order, it is an offence for one parent to take the children from the other parent, with the intent to deprive him or her of contact with the children. An exception is when the children are considered to be in “imminent harm” if left at home. If the victim is forced to leave the home for her or his own protection and decides to take his/her children, a lawyer should be contacted as soon as possible so that the matter of custody may be settled without delay.

If the victim has left the home without his/her children, and desires custody, it is equally important that he/she start a custody action immediately. The non-abusive parent has not lost his/her right to custody of the children by leaving them behind, but it is critical that he/she consult with a lawyer and start a custody action within a few days of leaving the abusive partner. The court may interpret a delay to mean that the victim does not really want the children. Or, if he/she takes long to initiate an action, that children become used to living with the other parent and the court may not want to upset their routine. It is not a good idea to leave the children behind.

If a lawyer has not been contacted before leaving, whatever option the victim chooses, it is important for him/her to contact a lawyer immediately so that the matter of custody and access can be dealt with.

Arrangements should also be made to obtain court ordered child support as soon as possible. It is a good idea to have a court order for child support even if the victim and the abusive spouse agree to child support amounts, as the court order may make it easier to enforce the child support agreement through the Maintenance Enforcement Program (see Provincial Domestic Violence Resource List). Child support amounts awarded by the court are governed by the Federal or Provincial Child Support Guidelines. A lawyer or the Family Law Information Centre should be consulted as to what amount the paying parent will be required to pay.

7.1 CUSTODY/GUARDIANSHIP

It should be noted that the language of custody and custody orders is being used less and less in Alberta in new orders. ‘Parenting Orders’ and ‘Parenting Time Orders’ are also now common in Alberta courts. Sole and joint custody refer to the authority to make decisions with respect to your children. However, use of the word ‘custody’ is falling into disfavour and is now only used
in the context of the *Divorce Act* (if it is used at all). If a court application is under the *Family Law Act*, the words ‘parenting time’ are used. However the terms sole and joint custody are still in wide circulation in old orders and amongst the public and public authorities such as police, schools, border crossings.

The language of guardianship is also used in divorce and in court applications under the *Family Law Act*. Under the *Family Law Act* guardians have the legal right to make significant decisions affecting the child’s physical, psychological and emotional development and the obligation to provide the necessaries of life (medical care, food, clothing and shelter).

Legally married parents are both guardians of their children and have equal right to the custody of their children until the court orders otherwise. Neither parent has the right to deny the other parent the right to see the child, unless there is a court order limiting a parent’s access or time with a child. Custody and guardianship and their interplay can be complicated and you may wish to consult a lawyer.

### Sole Custody

Sole Custody means one parent has all the rights to make major and minor decisions with respect to the children to the exclusion of the other parent. The parent who is not awarded custody still has many important legal rights, such as the right: to oppose the child’s adoption, to be informed of any criminal proceedings against the child, to share in the child’s estate if the child dies, to oppose the child’s name change, and the right to inquire about the child’s health, education, and welfare and that parent usually has the right to access, visit or spend time with the child. Very few sole custody orders are now granted.

### Joint Custody

Joint Custody means parents are both involved in making major decisions for their children such as health care, religion, education, extra-curricular activities, where the children live, counselling, etc.. Joint custody refers to shared decision-making and is language used in divorces only (and maybe not even then). Joint custody does not mean shared responsibilities beyond making the major decisions nor does it say anything about where children live. Parents can have joint custody but the child can reside primarily with one parent and visit the other. If parents cannot agree upon a decision they will likely attempt to resolve the issue through mediation, collaborative law, a parenting coordinator or court.

It used to be that joint custody would only be ordered by the court in situations when there was a high level of cooperation and respect between the parents. This is no longer the case. The courts might order joint custody even in circumstances when there has been a history of abuse because there is a strong belief that joint custody promotes contact for the children with both parents and that this is good for children. If there are safety concerns for either parent, protections need to be put in place if exchange of the children is to occur.

The parents are able and often sign a written agreement which sets out parenting rights and responsibilities. This is less likely to occur when domestic violence is an issue and parents must be careful not to be pressured into an agreement with which they are not comfortable or which is not sensitive to the needs of the children. As stated above, if parents cannot reach agreement themselves or with counsel alone, other methods of negotiation may be used but again, parents coming from homes in which domestic violence in present must be careful before entering into mediation, collaborative law, or using parenting coordinators. Parents should assure themselves
that whom ever they are working with has experience in and understands the dynamics of domestic violence. If parents cannot reach agreement, a judge will decide for them. The declaration of the court is called a custody order or a parenting order. It will specify who the children are to live with and the conditions for the other parent’s visitation (parenting time).

In cases of emergency, or if the victim believes harm will result if he/she gives notice, an ex parté order can be granted. The abusive partner will not be notified until after the judge has granted the order. This order is only temporary until interim custody is decided.

The primary consideration in a parenting order or a custody or access order is the best interests of the child. It is important to note that the Court can impose conditions or restrictions in any order. For instance, the Court could grant sole custody to one parent (again sole custody is now quite rare) on the condition that she or he attends counselling. These custody or parenting orders can be reviewed by the court and altered if circumstances change; therefore it is important to attempt to acquire all of the terms you think are important when you are in court because generally speaking before a new application can be made by a parent there is supposed to be a change in circumstances from the last time the parties were before the court.

The court can order the police to enforce orders and the current climate in Calgary is that the police will only enforce orders if there is a police enforcement clause in the order. If a person deliberately resists or disobeys a court order, he or she can be fined or jailed.

**How to Apply for a Parenting/Custody Order**

Parenting/custody orders can be obtained through either the Provincial Court, Family Division or the Court of Queen’s Bench (under the Family Law Act). A parent does not require a lawyer to apply for a Parenting Order and both Provincial Family Court and Court of Queen’s Bench supply a “Parenting Order Kit”. Custody Orders (which may also be called parenting orders) may also be obtained through the Court of Queen’s Bench under the Divorce Act, 1985 (in cases in which there is a divorce action). The person may wish to consult with a lawyer or community legal clinic to determine which procedure is the most appropriate.

If an application is made in Family Court, a lawyer is not required but may be useful. To apply for a parenting order in Family Court, the parent should contact the Family Court and make an appointment with a Family Court counselor. The counselor will assist in the application and will provide advice about the application. This service is free. The applicant will be required to complete an affidavit. A notice is then served on the other parent or guardian, telling him/her to attend court. Family Court counsellors will also assist with ex parte orders (explained in section about joint custody).

At the hearing the judge can either issue a permanent order, an interim order, or he/she adjourn the matter to trial. The judge may order the parents to attend courses such as the Parenting After Separation course. If the matter goes to trial, both parties will be expected to testify under oath and may also provide witnesses to testify. After hearing all of the evidence, the judge will make a decision based on his or her determination of what he or she thinks is in the best interests of the child.

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If there has been a divorce action started, the order will be granted by a Court of Queen's Bench justice. An interim custody order can be issued based upon the evidence provided to the court in the form of an affidavit.

**Length of Time to Obtain Custody or Parenting Order**

There is no specific time frame for acquiring either of these orders. It can take anywhere from two to ten years to get a final order, but a court will usually grant an interim custody order which sets out a parenting regime or custody arrangement until the matter is finally resolved. Any order that is granted sets up a status quo which can highly influence the final outcome. In other words if children are living with one parent for two years, a court will be reluctant to disturb their living arrangement even if after a trial it might seem better to have the children living elsewhere or someone else seems to have more 'right' to have the children.

**Common-Law Relationships/Adult Interdependent Partners**

Biological parents who are involved in a common-law relationship must be guardians in order to have parental/custodial rights unless he or she does not usually reside with the child. Again, the issue of parentage and guardianship may be complicated and you may wish to consult a lawyer.

In the Court of Queen’s Bench, generally a lawyer represents the applicant, but an individual can act on his/her behalf. In the Provincial Family Court, it is easier for anyone to file an application for a parenting order a on his/her own, although having a lawyer is best for such serious issues.

**Enforcing the Parenting/Custody Order**

In Calgary, the police will usually enforce a custody/parenting order issued in Alberta if there is a police enforcement clause. When the police are shown a copy of the order, they will accompany the parent to pick up his/her child if they reside in Alberta. If the children are outside Alberta, the police in that province will require an order issued from that jurisdiction. Custodial parents whose children visit parents out of province may need extra assurance that the child will be returned and should consult a lawyer.

**Dispute Resolution Officers (DRO)**

The Dispute Resolution Officer Project is a volunteer project of the Court of Queen’s Bench of Alberta and the Southern Alberta Family Law Bar to assist parties to reach a negotiated settlement of their family law disputes. It only operates in Calgary. Be aware that while DROs work with parties to encourage settlements, they do not give legal advice to either party. Parties should obtain independent legal advice before concluding a settlement. The project encourages those wanting to apply for child support or to vary child support to meet with a senior family law lawyer before going to court. The lawyers who are acting as DRO's hope to help parties reach agreement on issues without having to appear in front of a judge. An appointment with the DRO is mandatory for all child support applications and variation applications in Calgary Court of Queen's Bench, regardless of whether or not parties are represented by counsel. Only provisional applications under the *Divorce Act* are automatically exempt. Any other reason for exemption must be granted by a judge.40

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7.2 ACCESS/PARENTING

Custody is different from access. A parenting order will include provisions for both parents to have parenting time with children unless a court has ordered that a parent will not have time with a child or the time will be supervised. Again, while the provincial legislation (Family Law Act) has changed and the language of parenting time is used, the Divorce Act has not changed and parents may be custodial parents or access parents. A parent who has access to his/her child does not have equal rights as a custodial parent. Access gives the non-custodial parent the ability to visit the child as ordered by the court.

The court now commonly gives both parents custody (joint custody) and the child may reside with each parent equally or primarily with one parent. If a court decides to give one parent custody (sole custody, be it interim or final), it usually gives access/visiting rights to the other parent. The court believes that it is the right of every child to see, associate with and know both parents. Access rights are denied only in special situations, such as where it would likely cause the child physical or emotional harm.

Even if a sole custody order has been granted, the parent with custody has no right to deny access to the parent without custody unless there is a court order that permits it. If a parent with custody denies access, she or he can be cited for contempt of court and be fined. A repeated refusal of access could be a major factor in a court ordering that the other parent should be given custody of the child.

Under the Divorce Act, an access parent has the right to know about the decisions regarding the child’s health, education, welfare, and upbringing; it does not give them a right to be part of decision-making, unless that is included in the access order.

**Types of Access Orders**

*No Access*: If the Court believes that the parent without custody is a threat and may harm the child, that parent can be denied access completely. This type of order is very rare.

*Conditional Access*: Certain conditions must exist before access is allowed. For instance, if the parent has substance abuse issues, access may only be granted if the parent is sober.

*Supervised Access*: The parent without custody may only visit with the child if the visit is supervised by another adult approved by the parent with custody or the Court.

*Specified Access*: The Court orders that access visits can only occur at specified times.

*Reasonable Access*: Parents make decisions between themselves when access should occur. If the parents cannot agree, they can go to the Court and have a specified access order made. In circumstances in which there has been domestic violence or power and control issues, parents are less likely to be able to reach agreement themselves.
7.3 SAFE VISITATION

It is important for children to maintain safe and positive contact with both parents. However, in families where family violence has occurred and the parents are separated, child visits with a non-custodial parent can be stressful.

In Alberta, the Safe Visitation Initiative helps protect children and families in situations where there is a high risk of family violence between parents. Safe visitation provides an opportunity for children to visit with non-custodial parents in a safe and secure environment. Safe visitation services are provided by trained staff to help ensure children have a positive experience visiting with their parent.

Families may be eligible for safe visitation services if:

- There have been incidents of violence between parents and the parents are separated.
- There is a high risk of continuing or escalating family violence between parents and the children are at risk of further harm or exposure.
- The custodial parent would like a child to have safe contact with the non-custodial parent, a child wishes to visit the non-custodial parent, or a court has ordered that a child must have the opportunity to visit the non-custodial parent.
- The family circumstances have been assessed by a Child and Family Services Authority (CFSA) or Delegated First Nations Agency (DFNA) caseworker who has determined that the safe visitation program will meet the intervention needs of the family.

Anyone can identify that a family may be eligible for safe visitation services. The family is referred to the local CFSA. There is no cost for families to access services from a safe visitation pilot site, and a court order is not necessary for a referral.

In Calgary, safe visitation is available at YWCA Sheriff King Home. From more information, contact (403) 297-2995.

Parenting After Separation (PAS)

The goal of this program is to aid parents in helping their children through the process of separation by attending a free six-hour workshop. The workshop helps parents understand how the emotional, financial and legal characteristics of separation or divorce affect children, and it helps them continue to maintain a positive relationship with their children. Children are not allowed to attend the workshop, and security is always available. Attendance at the course is mandatory for most proceedings in the Court of Queen’s Bench, and parties must attend the entire six-hour course. Participants can choose to attend together or apart.

To register in Calgary: (403) 440-3833

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41 Government of Alberta, Safe Visitation for Community Agencies Information Sheet (Edmonton, nd) 17 April 2008
42 Family Justice Services, Parenting After Separation (Alberta Justice, nd) 17 April 2008
**Focus on Communication in Separation (FOCIS)**

The Focus on Communication in Separation course is offered by Alberta Justice and is a voluntary, six-hour communication course for separated or divorced parents of young children. It is offered monthly and is free.

**To register, contact Family Justice Services in Calgary**

(403) 297-6981

**Contact Orders**

Other adults also play an important part in the lives of children, and help provide them with the basics for learning and growing. A Contact Order defines how these people, such as grandparents, parents who are not guardians or persons standing in place of parents, spend time with children. Spending time with children may include visiting, telephone calls, e-mails and letters.

A person who desires a Contact Order must have leave (permission) of the court to apply, and they must point out the importance of their relationship with the child and why they need a Contact Order to keep communication with the child. The only circumstance in which leave of the Court is not necessary, is when parents become separated or if a parent passes away. Grandparents who were previously denied contact with a child can then apply for a contact order without Court leave.

**Contact Order Kit**  
[http://www.albertacourts.ab.ca/go/CourtServices/FamilyLawKits/tabid/140/Default.aspx](http://www.albertacourts.ab.ca/go/CourtServices/FamilyLawKits/tabid/140/Default.aspx)

**FLA – Full Act**  
[http://www.canlii.org/ab/laws/sta/f-4.5/20061113/whole.html](http://www.canlii.org/ab/laws/sta/f-4.5/20061113/whole.html)

### 7.4 GUARDIANSHIP

Married parents are guardians of their children even after separation or divorce unless a court takes away a person’s guardianship (rare). Unmarried parents are both guardians unless the parent and child have not lived together for one year. Guardianship includes rights and responsibilities. The *Family Law Act (FLA)* sets out a guardian’s rights and responsibilities. The *Divorce Act* does not specifically set out rights and responsibilities of guardians. Under the FLA, has the “right to be informed of and consulted about and to make all significant decisions affecting the child....” and “…to have sufficient contact with the child to carry out his or her powers and responsibilities...” Under the Family Law Act, a guardian has responsibility “…to nurture the child’s physical, psychological and emotional development and to guide the child towards independent adulthood; and to ensure the child has the necessaries of life, including medical care, food, clothing and shelter.”

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43 Family Justice Services, Focus on Communication in Separation (Alberta Justice, nd) 17 April 2008  
<http://www.albertacourts.ab.ca/cs/familyjustice/FocusonComm.pdf>

44 Family Law Act, Statutes of Alberta, chapter F-4.5, section 21, subsections 4 and 5.
Common-Law Relationships/Adult Interdependent Partners

Under the Family Law Act, a parent who has resided with a child for one year is a guardian of a child whether or not the parents were married.

People other than parents may be guardian if a parent or guardian appoints one or more persons to act as guardian of his/her child or if a court orders an individual to be a guardian.

Guardianship Order

See above "Guardianship" regarding the rights of a guardian under the Family Law Act. Under the Divorce Act, custody, rather than guardianship is the language and concept used. Under the Divorce Act, a guardian may or may not have custody. Both parents have responsibilities with respect to the child regardless of custodial status. If joint custody is awarded, both parents have rights with respect to the child. A non-joint-custodial parent has fewer rights with respect to the child. Guardianship issues should be informed by legal advice.

7.5 LEAVING THE PROVINCE

A victim without children is free to leave the province at any time if he/she desires. Victims with children who leave the jurisdiction in which they habitually reside without the children may be subject to allegations of having abandoned the children. Victims with children who leave the jurisdiction in which they habitually reside with the children may face abduction charges as well as a potential successful action by the abusive partner for custody. The abusive partner still has legal claim to his/her children after separation until a court order states otherwise or the abusive partner consents to let the victim remove the children from the province. The victim may have difficulty obtaining legal custody of the children, support for him/herself and the children, or obtaining family property if he/she decides to leave the province. Furthermore, there may also be problems in getting welfare or support in the new place of residence if he/she has not recently been a resident of that particular province. The victim should contact a lawyer or legal clinic before leaving the province.

7.6 PARENTS IN SAME-SEX RELATIONSHIPS

Non-biological parents who have not adopted the child have no automatic legal entitlement to custody and access of children. This is true regardless of whether the non-biological parent was part of a same sex-couple or an opposite sex couple. In both situations, the non-biological parent will have to apply to court for an order declaring them to have stood in the place of a parent (in loco parentis) to that child, and then for a custody or access order. This lack of legally recognized parental rights for non-biological parents means that the victim has no entitlement to custody or access to non-biological children born and/or raised in a relationship if they choose to leave, unless the victim is a guardian, an adoptive parent or has an order declaring them to stand in loco parentis to the child. If the victim is a non-biological parent and is considering leaving a relationship, he/she should seek legal advice.
7.7 PARENTS WITH DISABILITIES

The courts and social workers may look at how the individual's disability impacts his/her parenting ability. The parent will benefit from obtaining legal representation from a lawyer who is knowledgeable about the issues involved in disability, including discrimination.

7.8 NON-PERMANENT RESIDENT STATUS

If the individual, his/her intimate partner, or children are not permanent residents of Canada, they may have additional or different legal issues. It is advisable to seek information and support from a lawyer or community legal clinic that is knowledgeable about immigration and family law issues.

7.9 GRANDPARENTS’ RIGHTS TO ACCESS

Grandparents may apply for contact with a child under certain circumstances. In addition, the contact must be in the best interests of the child (for example, where the child has had an ongoing relationship with the grandparents), must not cause physical, psychological or emotional harm and the grandparent must be being denied contact unreasonably. The updated Family Law Act in Alberta allows grandparents to apply to the court for a contact order in cases where guardians (typically parents) and grandparents cannot agree on provisions for contact.45

7.10 CHILD INTERVENTION SERVICES (CHILD WELFARE)

When the police investigate a family violence situation where children are present in the home, police protocol requires that the investigating police officers alert Children’s Services about the situation. Children’s Services involvement may also be ordered by any judge hearing a family matter in which there are family violence concerns.

In a family violence situation, a Children’s Services caseworker may close the referral because of no child protection concerns or suggest a voluntary agreement to facilitate family support services such as counselling and in-home support. The caseworker may require the victim parent to apply for one or more of the following court orders to protect the children from contact with the abusive parent: (1) an Ex Parte Restraining Order to keep a non-resident abusive parent away from the children; (2) an Emergency Protection Order to remove an abusive parent from the home; and (3) a Parenting Order to establish sole guardianship, daily care provisions, the type of parenting time between the abusive parent and the children, and a police assistance clause which enables the police to enforce Parenting Order provisions.

The prudent parent should seek legal advice any time Children’s Services is involved with his or her family. Barring any contrary legal advice, the victim parent should follow through with Children’s Service’s recommendations to avoid the possibility of Children’s Services removing the children from the home. Any time Children’s Services applies for a court order regarding the children, the victim parent is entitled to Legal Aid representation if the parent falls within Legal Aid financial guidelines. There is also legal representation for children and youth. Children and youth receiving services under the Child, Youth and Family Enhancement Act or the Protection

of Sexually Exploited Children Act can apply to the Office of the Child and Youth Advocate (1-888-890-2020).

There are two basic streams of Child Intervention Services. One is the Family Enhancement, which is voluntary, and the other Core Protection, which is mandatory and court-ordered.

### 7.10.1 RESPONSIBILITY TO REPORT

According to the Act, any individual that has reasonable and probable grounds to believe that a child is in need of intervention should report that information to a director. Any person that fails to report a child in need of intervention is guilty of an offence and may be found liable to a fine of not more than $2000. Further, if an individual does not pay the fine, he/she could be imprisoned for a term of not more than 6 months. In almost all circumstances, an individual who reports a potential child in need of intervention is free from the possibility of legal action. Even individuals who gain information in confidence, where the breach of that confidence would typically be a criminal offence, are free from any legal action. If a report is made maliciously or without reasonable and probable grounds, then an individual could face legal action.

### 7.10.2 CHILD INTERVENTION MEDIATION

Under section 3.1 (1) of the Child, Youth and Family Enhancement Act, a child, a guardian, or a person who has a significant connection to a child may request mediation in any instance where they disagree with a decision made by the director relating to the child. The process, accessed through the Alberta Children’s Services Provincial Mediation Program, in partnership with Alberta Justice, has consistently led to positive outcomes for all including earlier resolution of issues on behalf of children.

### 7.10.3 FAMILY ENHANCEMENT AGREEMENTS

Children are considered to be in need of intervention, but the safety and protection of children can be assured while in the custody of the parent or guardian. Basically, this is a less intrusive avenue for families. It is a voluntary services agreement that parents must be agreeable to. Guardians still have sole custody of their children and they still reside at home. Voluntary services can include a range of services, including regular meetings with their caseworker, in-home support and referrals to community organizations (i.e., domestic violence treatment groups), to only name a few. There are numerous types of family enhancement agreements, detailed below.

#### Custody Agreement with Guardian

This is a voluntary agreement between a caseworker and the parent of a child who needs protection and cannot remain safely at home. The parent is still the legal guardian of the child and is responsible for making as many decisions for the child as possible. The caseworker is

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also responsible for making decisions, such as arranging for the child to live in a safe place and helping the family make changes so the child can return home.

**Custody Agreement with Youth**

Youth who are 16 years of age or older, who cannot live safely at home and who are living independently from the parent could sign a voluntary agreement, called a custody agreement, with a caseworker. The youth and the caseworker will develop a plan that includes where the youth will live and what financial support will be provided.

**Enhancement Agreement with Youth**

Youth who are living independently from their parent and who need limited supervision and support, could sign an agreement, called an enhancement agreement, with a caseworker. The agreement will describe what support services will be provided and what steps the youth needs to take to be prepared to live on their own.

**Permanent Guardianship Agreement (PGA)**

This agreement is usually for children under the age of six months. Parents who are unable to care for their child can voluntarily ask to sign an agreement that gives the Director of Child, Youth and Family Enhancement Act guardianship responsibility, including the right to place the child for adoption.

**7.10.4 CORE PROTECTION**

These orders are court-mandated and are given only by a judge under the Child, Youth and Family Enhancement Act.

**Apprehension Order**

An apprehension order gives the director the authority to take the child from the custody of his/her guardian. If the director determines that a reasonable and probable belief exists that a child is in need of intervention, he/she can make an application to the Court for this order. An apprehension order can also be granted if a child that was in the director’s custody has either left or been removed without the director’s consent. After a child has been apprehended, the director has exclusive custody of the child until the child is returned to his/her guardian, or an application to the Court for further supervision or guardianship has been decided.

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A supervision order is an order made by a judge that says what kind of services a family must receive to help them keep a child safe at home. The parent is still the guardian. However, a caseworker is involved to ensure that services are provided and that the child is safe.

**Temporary Guardianship Order (TGO)**

This is an order granted by a judge that temporarily removes a child from the custody of the parent when the child’s safety cannot be protected at home. Guardianship is shared between the parent and the Director of Child, Youth and Family Enhancement Act. Since the plan is to have the child returned to the parent, the caseworker works with the family and the child to help them make changes so the family can be together again.

**Permanent Guardianship Order (PGO)**

This is an order granted by a judge that permanently removes a child from the custody of the parent when the child is not able to return safely to the family home. This order ends the guardianship responsibilities of the parent and gives them to the Director of Child, Youth and Family Enhancement Act who is represented by the caseworker.

**Private Guardianship Order**

Usually the parent is the guardian of a child and is responsible for taking care of the child and making decisions. However, if the parent is unable to do so, the court may give the responsibility to another adult, called a private guardian. This person has made a permanent commitment to raise the child and to take on all the responsibilities of a parent. Private guardianship is not the same as adoption.

**8.0 DOMESTIC VIOLENCE AND IMMIGRATION ISSUES**

Immigrant and refugee women who are abused by their sponsor face particular difficulties in accessing personal safety and protection. If these women do not have permanent resident
status, or are at risk of deportation for other reasons, the consequences of leaving an abusive sponsor can complicate their immigration status.

8.1 WOMEN WITH PERMANENT RESIDENT STATUS

A permanent resident is an immigrant or a protected person (refugee) who has successfully applied to live in Canada permanently. Every permanent resident receives a document from Citizenship and Immigration Canada (CIC) as proof of status. The documents that prove someone’s permanent resident status are the Permanent Resident Card, the Record of Landing, and the Confirmation of Permanent Residence. Permanent residents are sometimes referred to as “landed immigrants”. They can apply to become Canadian citizens. A permanent resident or a Canadian citizen can leave an abusive partner and her status in Canada will not be affected by that decision alone. If a woman has not yet received permanent resident status, and she separates from her spouse or partner, she can still pursue her application to remain in Canada. Any immigrant woman facing domestic violence needs to obtain specific legal advice as to her own particular immigration status. The Citizenship and Immigration Canada website is at http://www.cic.gc.ca/.

8.1.1 FAMILY CLASS SPONSORSHIP

Many immigrant women arrive in Canada as family class relatives who have been sponsored by a spouse or partner. To sponsor a family class relative, the sponsor must be a Canadian citizen or permanent resident, and be 18 years of age or older. A woman who is sponsored from outside Canada arrives with a permanent resident visa and becomes a permanent resident when she enters Canada. A woman may get permanent resident status after coming to Canada because her spouse or partner applies to sponsor her from within Canada. Below is an explanation of who can be sponsored as a spouse or partner in the family class.

A spouse: This is a person the sponsor is legally married to.

A common-law partner: This is a person of the same or opposite sex who the sponsor is in a conjugal (or marriage-like) relationship with and has lived with for at least one year. Or, this is a person who the sponsor has been in a conjugal relationship with for at least one year but could not live with because of persecution. For example, they might not have been able to live together in a country where common-law or same-sex relationships are against the law or where people are persecuted for being in these types of relationships.

A conjugal partner: This is a person of the same or opposite sex who lives outside Canada, and who the sponsor has been in a conjugal (or marriage-like) relationship with for at least one year. A conjugal relationship does not have to include living together.

Note: A spouse, or a common-law or conjugal partner must be at least 16 years old.

8.1.2 SPONSORSHIP BREAKDOWN

Sponsors have a financial obligation to the people they sponsor. “Sponsorship breakdown” happens if sponsors refuse or are unable to meet their obligations. When a woman is abused by her sponsor, their relationship may reach the point where she cannot look to her sponsor for any kind of help. CIC does not expect an abused woman to remain silent about her partner’s violent behaviour or to live in danger.
Unfortunately, many women who are permanent residents or Canadian citizens believe that they have no rights during their sponsorship period. They believe that they must live with their sponsor throughout the sponsorship period. This is not true. They may also believe their sponsor’s threats to have them deported, even if they are permanent residents.

8.2 WOMEN WITHOUT PERMANENT RESIDENT STATUS

Many women are in Canada without permanent resident status. Some have temporary status and some have no immigration status at all. Also included are:

- women with “inland spousal sponsorship” applications in progress,
- refugee claimants, and
- live-in caregivers.

Women who do not have permanent resident status and who leave an abusive situation can be at risk of being removed from Canada.

8.2.1 INLAND SPOUSAL SPONSORSHIP

A woman who is already in Canada, with or without temporary status, can apply under a special category known as the “Spouse or Common-law Partner in Canada class”. The application is processed in Canada and is sometimes called an “inland spousal sponsorship”. If the marriage or relationship is considered genuine and all other requirements are met, the woman will be given permanent resident status. A “conjugal partner” cannot be sponsored in this category.

Since these applications take time to process, some women may stay in abusive relationships for a long time. They may stay in dangerous situations because they think that they have no choice and can take no action. A woman whose application is dependent on her spouse or partner risks being removed from Canada if she separates. If she leaves the relationship, or is thinking about leaving, she must get legal advice right away.

8.2.2 REFUGEE CLAIMANTS

Please note: If a woman is thinking about making a refugee claim based on fear of domestic violence, she should get legal advice.

Some women who make claims for refugee protection base their claims on their spouse or partner’s fear of persecution. In these cases, a woman may have difficulty succeeding with her claim if she separates from her abusive spouse or partner. A woman in this situation should get legal advice from her own lawyer. Sometimes, it is possible for a woman to base a refugee claim on her fear of being abused in her own country. She must also show that she cannot get protection from the government there. For example, she might be from a country where the police do not lay charges against men who physically abuse their wives.

If a woman is facing an admissibility hearing, she should not wait until the hearing to make a refugee claim because once a removal order is made against her, it is too late for her to claim refugee protection. An admissibility hearing is held before a member of the Immigration Division of the Immigration and Refugee Board (IRB). The hearing takes place after a report that states
that the woman is not admissible to Canada because she did not follow immigration rules. For example, if she came to Canada as a visitor and did not renew her status after it expired, she will have broken an immigration rule. In most cases, she will be able to apply for a pre-removal risk assessment (PRRA). She can also make an H&C application.

8.2.3 LIVE-IN CAREGIVERS

A foreign domestic worker who has come to Canada under the Live-in Caregivers Program (LCP) is dependent on her employer and has to wait for at least two years to apply for permanent resident status. If she is in an abusive situation, she may be afraid to leave.

Live-in caregivers should know that if they leave their current employer and find other full-time, live-in domestic employment, they can ask CIC to issue them a new work permit.

If a live-in caregiver loses her job and cannot find another one, she can be sent home. But there may be steps she can take to stay in Canada. A woman in this situation should get legal advice.

Women in Calgary can contact the Calgary Immigrant Women Association for further assistance at (403) 263-4414.

8.2.4 HUMANITARIAN AND COMPASSIONATE APPLICATION

Please note: Making an H&C application does not automatically stop removal. It is always best to get advice from a lawyer or a community legal clinic about preparing an H&C application.

In general, immigration law requires people to apply for permanent residence from outside Canada. An exception to this rule allows applications from within Canada to succeed if CIC is satisfied that there are sufficient humanitarian and compassionate reasons. CIC policies on H&C applications specifically address domestic violence and sponsorship withdrawal. CIC officers must take into account situations where a woman has left an abusive spouse or partner. An application for permanent resident status on H&C grounds should be as detailed as possible. If a woman has left an abusive situation, her application should set out the history of abuse and include copies of reports from shelters, medical professionals, and the police, if possible. If the abused woman is required as a witness in a criminal trial, this should also be mentioned. She should be able to stay in Canada at least until the trial is finished. If there is a child who could be directly affected by the decision, CIC must consider the best interests of the child.

The application must show how established the woman is in Canada. This is important to the success of the application. It can take time to get the application ready and for CIC to make a decision. So, it is important that the woman try to create a stable situation for herself. She may need help improving her skills or finding work, housing, or child care.

To prove that she is established, her application could refer to such things as:

- her employment history in Canada, including job references,
- her level of education, and any skills updating or training she has received,
- any volunteer work she has done in Canada,
- whether she can speak French or English,
- how long she has lived in Canada,
• letters of support from friends and religious, community, or other groups,
• whether she has children here, whether they were born in Canada, whether she has any relatives here who are willing and able to help her,
• what type of assets or savings she has here, and
• whether she has had to rely on social assistance. If she has relied on social assistance, she should explain why this was necessary. It is best that she not be on social assistance when she makes her application. If this is not possible, it may help if she has a plan for getting off assistance in the future.

An H&C application should also include information about the hardship a woman would face if she had to return to her country. She should give as much detail as possible about what would happen to her there. Giving information about the customs and culture in her country can sometimes be helpful. If her removal would have an impact on others living in Canada, such as family members or an employer, she should explain this.

If a sponsorship application was made in Canada and it had already been approved in principle before the sponsorship broke down, it should not be necessary to prove that the marriage or relationship was genuine. But, if the separation occurs before CIC gives approval in principle, it can be helpful to include evidence such as wedding photos or letters from friends or relatives to show that this was a genuine marriage or relationship.

The application must include a thorough and detailed summary of the woman’s experience and situation in Canada. CIC may interview the woman about her application but often this does not happen. So, the application may be her only opportunity to tell CIC about her case. It is also important that she let CIC know about any changes in her situation. Because it can take a while to get a decision, a woman’s circumstances may change significantly.

If a woman is facing an admissibility hearing, she should not wait until the hearing to make an H&C application. A member at an admissibility hearing does not have to delay the hearing to allow time for CIC to consider and decide an H&C application. And the member does not have the power to let a woman stay for H&C reasons.

It can take a long time to get a decision on an H&C application. You can check the CIC web site at <www.cic.gc.ca> and click on “Application Processing Times” for current estimates. The estimates can change and actual times can be significantly longer than the estimates. As of July 2008, the estimated processing time is 53 days.

### 8.2.5 PRE-REMOVAL RISK ASSESSMENT

In a pre-removal risk assessment (PRRA), Citizenship and Immigration Canada (CIC) evaluates the risk you will face if you are sent back to your country. PRRA is supposed to take place when the Canada Border Services Agency (CBSA) is ready to remove you from Canada. CIC decides whether, at that time, you are a Convention refugee or a person in need of protection, and should not be removed from Canada.

Immigration officers who decide PRRA applications are called PRRA officers. There is no fee to apply for PRRA, but please note that very few PRRA applications are accepted.
8.3 CONSEQUENCES FOR THE ABUSER

If a woman contacts the police, the police could charge the abuser with a criminal offence. If the abuser is not a Canadian citizen, a criminal conviction can lead to the abuser being removed from Canada. In most cases, a permanent resident who is ordered deported has a right to appeal that decision to the Immigration Appeal Division of the IRB.

Someone who is convicted of an offence that results in “bodily harm” against a member of their family or their spouse or partner’s family, cannot sponsor anyone. This is also true if they are convicted of attempting or threatening to commit this kind of offence.

Often, when a marriage breaks down, a sponsor will refuse to continue supporting the spouse. Sponsors who are unable or unwilling to meet their sponsorship obligations are usually not allowed to sponsor anyone else in the future. And, if someone they sponsored received social assistance, the government will take steps to get the money back from the sponsor.
PART II: Diverse Cultural Perspectives on Domestic Violence
9.0 ABOUT THIS CULTURAL PIECE – INTRODUCTION

The Calgary Coalition on Family Violence has a history of extensive work in the area of cultural competency and in increasing awareness around the issues of cultural diversity and domestic violence. Many frontline workers face complex cultural issues that they sometimes do not understand when dealing with clients from various cultural backgrounds. The Calgary Coalition on Family Violence has expertise that can assist front-line providers to interact respectfully and effectively with diverse communities.

With the increasing influx and diversity of immigrants and refugees to Calgary, it becomes much more challenging for service providers to be knowledgeable about the customs, values and practices of so many cultures. Workers may be unaware of cultural aspects, as well as immigrant/refugee status, that impact circumstances of domestic violence. Ethnocultural and racial minority women and their families face unique systemic and personal barriers that magnify their experience of abuse.

This guide is intended to facilitate service delivery by increasing awareness of cultural diversity, including some basic information regarding religion/faith within the cultural communities. The information provided is not intended to categorize or label individuals. It is intended to provide basic information to assist service providers to better assess their clients’ circumstances and needs. An important consideration in reading this information is that within a culture, there can be significant variations in the degree of Westernization. The information will hopefully stimulate service providers to inquire further into each client’s specific background and beliefs. It is important for service providers to remain open-minded and compassionate, and to listen to their client’s particular circumstances without making any assumptions about their community and their position within that community.

Domestic violence happens across all cultures and religious/faith practices. It is essential to respect individual and cultural beliefs. However, any practice that harms another human being will not be condoned or tolerated by the Canadian legal system, regardless of culture or religion/faith. Any behaviours that are not in accordance with Canadian or provincial law will be considered in conflict with the law, and criminal or civil action can be taken.

One of the greatest difficulties encountered during the process of gathering information for this project was finding individuals willing to share their experience or knowledge about domestic violence within their cultural communities. Domestic violence is a sensitive topic, and dealing with it, personally or professionally, can put a person at risk.

In recognition of the small number of interviews conducted for each community, the information cannot be considered an accurate representation of the cultural communities included. For this reason, internet and library resources have been included at the end of this document in Appendix A. These can be referred to for additional information regarding diverse cultural norms, beliefs, values, and practices.

Many cultural practices are discussed; however, it is important to note that these are not expert opinions. Information provided by interviewees is their personal perspective and may come from their own experiences. A single culture often contains several, if not many, sub-cultures, and no family or individual within one culture is alike. One cannot generalize and assume that all clients from a particular community will think and act in the same manner.
9.1 RESOURCES FOR WORKING WITH DIVERSE COMMUNITIES

What is Cultural Competency?

A set of congruent behaviours, attitudes and policies that come together in a system, agency or profession that enables that system, agency or profession to achieve cultural diversity and to work effectively in cross-cultural situations.\(^{58}\)

What is Cultural Sensitivity?

Cultural sensitivity is an awareness, understanding, responsiveness and respect for the beliefs, values, customs and institutions (family, religious, etc.) of a group of people, particularly those of a race culture or ethnic group different from one's own.\(^{59}\)

What is the difference?

Cultural competency is an ongoing progressive and developmental process and exists on the continuum from incompetence to proficiency. It can take many years to achieve cultural competency.

9.2 DIVERSITY ASSESSMENTS

Individuals working with immigrant and refugee women, especially when they are in a vulnerable situation such as when facing violence or abuse, need to reflect on their own cultural competency. The following checklist gives a snapshot of where individuals currently are on the continuum of cultural competency.

9.2.1 INDIVIDUAL SELF-ASSESSMENT CHECKLIST FOR CULTURAL COMPETENCY\(^{60}\)

For each item listed, enter A for “things I do frequently,” B for “things I do occasionally” and C for “things I rarely or never do.”

Physical Environment, Materials & Resources

___ I ensure the printed & posted information in my work environment reflects the diversity and literacy of individuals or families to whom I provide service.

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When using brochures, posters, videos, or other media resources for health education, treatment or other interventions, I ensure that they reflect the cultures and ethnic background of individuals and families to whom I provide service.

I ensure the printed information I provide takes into account the literacy levels of individuals or families to whom I provide service.

**Communication Styles**

When interacting with individuals and families who do not have spoken English proficiency, I always keep in mind that:

- Spoken English proficiency does not reflect literate English proficiency or language of origin proficiency or literacy.
- Limited ability to speak the language of the dominant culture has no bearing on ability to communicate effectively in one's mother tongue.
- Limitations in English proficiency do not reflect mental ability.
- I use bilingual and/or bicultural staff trained in interpretation when required or requested.
- For individuals and families who speak languages other than English, I attempt to learn and use key words in their language so that I am better able to communicate with them during assessment, treatment or other interventions.
- I can provide alternatives to written communication if required or preferred.

**Social Interaction**

- I understand and accept that family is defined in a variety of different ways by different cultures (e.g., extended family members, kin, godparents).
- Even though my professional or moral point of view may differ, I accept individuals and families as the ultimate decision makers for services and supports impacting their lives.
- I understand that age, sex and life cycle factors need to be considered in interactions with individuals and families. For instance, a high value may be placed on the decision of elders, the role of eldest male or female in families, or roles and expectations of children within the family.
- I accept and respect that male-female gender roles may vary among different cultures and ethnic groups (e.g., which family member makes major decisions for the family).

**Assumptions, Attitudes and Values**

- I recognize and accept that individuals from diverse cultural backgrounds may desire varying degrees of acculturation into dominant culture.
- I avoid imposing my values.
- I intervene in an appropriate manner when I observe other staff or clients within my program or agency engaging in behaviours that are not culturally competent.
- I screen resources for cultural, ethnic or racial stereotypes and/or inclusion before sharing them with individuals and families served by my program or agency.
- I avail myself to professional development and training to enhance my knowledge and skills in the provision of services and supports to culturally, ethnically, racially and linguistically diverse groups.
- I advocate for the review of my program or agency's mission statement, goals, policies and procedures to ensure that they incorporate principles and practices that promote cultural and linguistic competence.
NB: There is no answer key with correct responses. However, if you frequently responded "C," you may not necessarily demonstrate beliefs, attitudes, values and practices that promote cultural competence within service delivery programs.

### 9.2.2 ORGANIZATIONAL ASSESSMENT

Organizations need to periodically self-assess for cultural competency. Below is a quick checklist to guide workers in helping to identify their agencies’ strengths and its opportunities for improvement. Agencies can also undergo a more in-depth cultural competency self-assessment.  

**Organizational Diversity Competency Checklist**

One indicator of a diversity competent organization is implementation of equitable and accessible programs and services for all. This assessment is intended to determine to extent that your program or service is diversity competent. It is also intended to increase awareness of importance of diversity competence in delivery of services. The following items are examples of values and practices that diversity competent programs and services demonstrate on a consistent basis.

Mark the blank in front of each statement with one of these 5 symbols:

- **F** – Things we do frequently
- **O** – Things we do occasionally
- **R** – Things we do rarely or never
- **?** – We don’t know
- **N/A** – not applicable

1. Welcoming and other signage translated in the most common languages of origins of the clients/patients and their families served by the program or service is displayed.
2. “Interpretation Service Available” placards are clearly displayed.
3. Notices and announcements are translated in the most common languages of origins of the clients and their families served by the program or service.
4. Pictures, posters and other materials that reflect the diversity of clients and their families are displayed.
5. Magazines, brochures, and other printed materials in reception areas are of interest to and reflect the diversity of clients and their families served by the program or service.
6. The materials (print, videos, films) used for client education have been reviewed to ensure they are reflective of the diversity of clients and their families served by the program or service.
7. Client education materials are available in translated versions and alternative formats.

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When foods and beverages are provided, they are unique to the diverse backgrounds of clients and their families served by the program or service.

Toys and other play items are representative of the diverse groups within the local community and society in general.

Books, movies and other media resources have been screened for use of inclusive language before sharing them with clients/patients and their families served by the program or service.

Information on acceptable behaviours, courtesies, customs and expectations that are unique to specific diverse groups served by the program is available to staff.

Community informants and families are consulted to provide information that will assist staff in adapting services to ensure it is responsive to the needs and preferences of the diverse populations they serve.

Members of the diverse populations we serve are brought in to explain their cultural norms to the staff.

Cultural guides and resources are available to staff.

Mission statements, goals, policies and procedures are regularly reviewed to ensure that they incorporate principles and practices that promote diversity and diversity competency.

Results:
What was the total number of statements that you marked:

F ______ O ______ R ______ ? ______

If the majority of the statements were marked F (frequently) or O (occasionally), your program or service is demonstrating diversity competency. Review the statements which were marked R (rarely) and ? (unknown) and try to implement changes to improve these areas of diversity competency.

If the majority of the statements were marked R (rarely) or ? (unknown), there is some room for improvement with the diversity competency of your program or service. On-line resources are available that will help you increase the diversity competency of your program or service: http://www.calgaryhealthregion.ca/hecomm/diversity/diversity.htm.

9.3 ADDITIONAL TIPS FOR WORKING WITH IMMIGRANT WOMEN

The worker who comes into contact with an immigrant woman who is identified as a victim of domestic violence should ask the following questions:

- Do I realize what the woman is going through?
- Does the woman have somewhere else to go for help?
- What is her emotional situation?
- How frightened is she of her husband?
- Do I have a way of assisting her? Do I have the skills?
- Do I have the skills to deal with a woman from a different culture than my own?

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• Who in my organization is better equipped to assess the victim? Have I discussed with my supervisors how to assess if the woman who came to me for some other service is a victim of abuse? Do I know what next steps to take?
• Am I aware that, as an immigrant woman, she might be facing challenges that relate to her immigration status, and that her status might be worsening the domestic abuse? What exact challenges is the immigrant woman who is before me in this case facing? In light of those challenges, how will I approach the intervention?
• Am I aware of what barriers the woman will be facing?
• Where am I going to refer the woman? Does my own organization have a program for victims of abuse? If not, do I know what procedure to follow to refer the woman?

Is my organization going to report to authorities, if this is the chosen course, or will the report be done by the organization to which the referral is being made? What procedure has been established?

9.4 WHAT TO DO IF YOU MAKE A CULTURAL MISTAKE

When you are interacting with someone from a culture with which you are unfamiliar, you may feel that you are stepping into uncharted territory. It is unrealistic to expect that you will be completely culturally competent in these new situations. Trying to be perfect can only lead to your discomfort and you will probably act unnatural. Because you are in an unfamiliar situation, you can expect to make a cultural mistake.

Everyone, at one time or another, is bound to make a mistake and inadvertently cause someone discomfort. It is important to realize that we are all human, that mistakes are inevitable, and that most people do not genuinely set out to offend others. This information will help you minimize the risk of a cultural error and recover from your mistake once they occur:

• Acknowledge that the client and family are the experts on their own cultural norms. Although you may have experience working with others from the same culture, each client and family must be approached in a unique way. No person is a stereotype of their culture of origin; each person is a unique blend of the many dimensions of diversity that they possess; ethnic group, upbringing, life experiences, place of birth, socio-economic circumstance, education, etc. There is also always vast diversity within a cultural group. Therefore, although you should be knowledgeable about the norms of a client and family’s cultural group, never assume an individual follows any or all norms of that group.

• Mirror or copy the behaviours of the client and family member. Learn to adopt the social etiquette norms and verbal and nonverbal behaviours of the client and family. Take cues about how to behave from the client and family. If the client and family address you in a formal way, you should address them in a formal way. If the client and family speak softly, you should lower your volume of voice. Pattern your eye contact, use of space, and conversational pace to that of the client and family.

• Listen to the client and family with openness. Avoid putting the client and family in the position of feeling that they need to defend or explain their cultural practices. If the client and family feel the need to put energy into defending their cultural practices, energy is diverted away from the issue at hand.

• Be alert to the client and family’s needs, preferences and expectations. You may need to consider modifying the case plan to address what is important to the client and family before working on the priorities you have identified.

• If you are in the position of making recommendations to the client and family, whenever possible try to explain the recommendations from their frame of reference instead of from your perspective.

• Be aware of facial expressions and body language of the client and family at all times, particularly be aware of a change in the client and family expression or tone that indicates that something is wrong. The client and family may be experiencing cultural pain. Cultural pain may result in you inadvertently ignoring an important cultural obligation or violating a cultural taboo. The client and family may be deeply offended and often embarrassed when they are experiencing cultural pain and may not know how to correct the situation gracefully. They may simply withdraw from you as a result. If you notice a change in the “atmosphere” of the situation, you should try to amend it by asking the client or family if you have said or done something that has offended them.

If you make a cultural error:

1. Apologize and express regret about the behaviour or words that have offended the client and family.

   Offering a sincere apology when you have made a mistake is crucial in maintaining or repairing your relationship with the person with whom you are communicating. Often attempts to explain why you said what you did or to justify your error will lead to further problems.

2. Convey a desire to respect the client and family’s cultural norms.

   Let the client and family know that the cultural error resulted from a lack of understanding or knowledge about their culture. Tell them that you would like to learn more so that you can show respect in the future.

3. Express a willingness to learn about the client and family’s cultural needs.

   Treat your mistake as a learning opportunity. Reflect on what you said and understand why the person was offended or uncomfortable. If you are completely unaware, ask the client and family what you did and how you can correct it. Once you understand this, you will be less likely to repeat this mistake. Review the information provided to you on this website: http://www.calgaryhealthregion.ca/hecomm/diversity/diversity.htm. It will help reinforce your understanding of your mistake and help you not to repeat it. It is often very helpful to talk about your mistake with others. This not only helps to increase your understanding of the mistake, but it helps others too, so that they do not make the same mistake.
4. Don't repeat your mistake.

Make a conscious effort to not repeat your mistake. Think before you speak. Put into practice the information that is provided for you on this website. Be aware of the importance of listening, observing and following verbal and nonverbal cues.

5. Move on.

Remember, all of us at some time or another has made a mistake and inadvertently offended someone or caused someone discomfort. Don’t beat yourself up over the mistake. Acknowledge that you made a mistake despite your best intentions and let it go.

10.0 CULTURAL PROFILES

10.1 METHODOLOGY

The cultural communities represented in this guide include Chinese; Korean; South Asian; and Southeast Asian.

The selection criteria for the cultural and religious communities included in this guide were: ethnoculturally diverse community representation from domestic violence courts; HomeFront services; counselling agency populations being served; shelter utilization by ethnoculturally diverse populations; and the participation of interested individuals from a variety of ethnocultural communities.

Information for the cultural segment of the guide was sourced from the Calgary Health Region’s 2003 cultural profiles, as well as their 2005 publication, Enhancing Cultural Competency: A Resource Kit for Health Care Professionals. The cultural profiles were enhanced and verified through one-on-one interviews with individuals from the ethnocultural communities. Interviews were made possible by building relationships with and consulting members of various culturally diverse populations in Calgary.

Those interviewed included both professionals and community members, of both genders, to ensure as wide an information base as possible. Interviews were guided by a semi-structured, open-ended questionnaire, to ensure interview information was centred around domestic violence and abuse.

Once interviews were complete, the information was written from notes taken during the interviews. The majority of interviews were taped to enable review of information for more accurate notation. Information was then sent back to the interviewee for review, to make certain

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their information was understood and accurately presented. Notated information was edited to make cultural terminology transferable to the Canadian context.

### 10.2 HEADING DEFINITIONS

The following definitions were developed to increase reader understanding of the information in this section. These descriptions were also intended to provide a better context and background for the contents provided.

#### Cultural Customs and Values

This category contains information on traditional practices in a community’s country of origin that may impact domestic violence. Topics such as how communication occurs in the community, how individuals express themselves (emotionally, physically), and what values are emphasized among members of the community (e.g. respect for elders, saving face, etc.) are included. Key languages spoken within the community may also be present, along with signals or gestures that may be significant in scenarios of domestic violence.

#### Family Structure and Role Expectations

The roles of male and female, rather than husband and wife, were chosen to recognize that conflict is not always between husband and wife, but can be between any related members present in a household (e.g. mother-in-law, father-in-law, daughter-in-law, brother-in-law, etc.). Role expectations may include the roles of any family members, including children, grandparents, daughter-in-law, son-in-law, etc.

This section also highlights whether the family is nuclear (husband, wife and their children if any) or extended (additional related members of the husband and/or wife and children living under same roof). Families are often traditionally extended in the country of origin, but may adapt during immigration processes to become nuclear; the reverse may also occur. Values and traditions with respect to children have been integrated.

#### Marriage and Divorce Attitudes, Customs and Practices

In this section one can find marriage customs traditionally practiced in the community, with maintenance of, or alterations of practices when coming to Canada. Some communities have customarily, and may continue to, practice “arranged” marriages, while others prefer “love-matches.” A compromise between the two types of matches can be seen in some communities.

Information on practices related to divorce and processes involved are also found here. In some communities, divorce is not an option.

#### Religious/Spiritual Beliefs and Practices

Although there can be a large number of religious/spiritual beliefs or practices commonly found within a community, only the three most predominant religious/spiritual beliefs and practices followed are listed under each community.

The guide does not provide a detailed explanation of religious/spiritual practices, as interpretation of religious laws and values can differ greatly from one individual to the next.
However, as many interviewees have stated, there is an innate spiritual core in many communities, and religion/faith is deeply rooted in their practices. If service providers attempt to understand the basic rules around a community’s or an individual’s religion/faith, it will be easier to understand the people, and thereby help a community or individual within that community.

**Immigration and Settlement**

This section provides information on basic immigration and settlement issues that are particular to the community. While many immigrants and refugees come here with little or no knowledge of English, it creates barriers not only to daily living, but also to seeking help in circumstances of domestic violence. New immigrants are faced with the stressors of finding a job, finding a home and learning the laws and customs of a new country. These stressors can have impact upon the escalation of violence within a family. Families that traditionally put the responsibility of the earnings on the husband often find that the female must find employment when coming to Canada, as both incomes are needed for survival.

There are many customs practiced by immigrants in their countries of origin that are simply not acceptable by Canadian laws and standards. Families may have difficulty understanding the role of Child and Family Services, especially during apprehension, as there is commonly a conflict between child-rearing practices in their country of origin and in Canada.

Intergenerational issues in the family system are at times also created when immigrants hold on to cultural beliefs and practices from their country of origin. These beliefs and practices may no longer be customary in their country of origin as when they left. Culture and the definition of culture are fluid, ever evolving and changing.

Many refugees have also experienced war and displacement. They often bring with them and continue to suffer from serious trauma. This trauma creates additional barriers in every aspect of their lives, making it even more challenging to adapt to a new country, its customs and its practices. The stressors associated with trauma can once again impact the level of family violence.

The abuser will sometimes threaten a victim or their family with deportation if they report the abuse or violence. More often than not, sponsored individuals will not be deported. Unfortunately, victims of abuse are commonly unaware of their status and rights in Canada and therefore do not seek outside help.

**Domestic Violence in the Community**

In this category one can find how a situation of domestic violence is normally handled in a community’s country of origin and who gets involved. Within some communities, terms or words for “domestic or family violence” may not even exist. Many communities also consider domestic violence a “family” or “private” matter that is not to be shared with the broader community.

Issues regarding fear of authorities in their country of origin may prevent individuals from seeking help in Canada. Individuals within a community may not call the police in a case of domestic violence in their country of origin, due to misuse of power by some authorities. Whether the police get involved and what their responsibilities are can vary from one community to the next. There are often few, if any, social agencies or shelters available to victims in their
country of origin. Under this section you may find whether perpetrators are held accountable for their actions and if so, how they are held accountable.

**Cross-cultural communication tips**

This category is present for some cultural profiles and offers tips for communicating, both verbally, and with body language.

### 10.3 COMMON FINDINGS ACROSS CULTURAL COMMUNITIES

While conducting interviews, as well as during the process of transcribing interview notes, many common themes regarding domestic violence arose among the various ethnocultural communities. This does not guarantee that each statement can be attributed to every cultural community, nor that these statements apply to every individual or case within a community. The following list of themes does however apply to a majority of the interviews conducted.

- Children often acculturate much more quickly than their parents, as they have not yet developed strong belief systems based on their country of origin, or their parent’s traditional values. Cultural beliefs also evolve and change constantly, including in other countries of origin. Immigrants often embrace their traditional beliefs and practices as a way of not losing sight of their values and their identity, despite changes to culture and values occurring in their country of origin. Children sometimes feel their parents’ traditional practices are outdated, and conflicts may arise.

- Many immigrants and refugees lose their support system because family and close friends are left behind in their country of origin. Those to whom new immigrants would normally turn to for help in situations of domestic violence or abuse are often unable for help from such a great distance.

- Education and credentials from other countries are often not recognized here. Newcomers lose their self-confidence while attempting to find jobs in fields they were trained in. They are often forced to take low-paying jobs that hardly cover the cost of food and shelter for their family. For this reason they are often forced to work several jobs and become tired and stressed. This stress sometimes triggers conflict in the home.

- Women who are often not required to work in their country of origin can be faced with having to find jobs here, as their husbands’ income is not sufficient to support the family. Males who are accustomed to being the breadwinner in their families may feel a sense of insecurity and experience a loss of self-confidence. This can trigger disputes among spouses.

- Because authorities from the country of origin are often abusive themselves to victims, they are not trusted. As a result, immigrants often do not trust Canadian authorities such as police, doctors, the government and service providers. Many individuals from various ethnocultural communities chose not to seek outside help or intervention because of their mistrust of authorities.

- In many communities, shame to the family and community is a huge barrier to seeking outside intervention for incidences of domestic violence and abuse. If a “family matter” is
made public, there is stigma for the victim, the abuser and/or their entire family within the community. For this reason, many victims are hesitant to seek help.

- Patriarchal societies appear to be prominent in a large number of the cultural communities addressed. In a patriarchal society, men are primarily responsible for representing society and the family unit. Some men believe this hierarchical structure grants them dominance over women, and allows them to use violence against women.

- In some countries, females are socialized to be obedient or subservient to male members of their family. Some men may be convinced that disobedience of their orders from female family members warrants their violence. Selflessness is a valued trait in women, and they may be encouraged (by family and community) to endure abuse. They are sometimes blamed for breaking up the family if they leave the relationship.

- There may be a greater value or emphasis placed on the extended family. The value of cohesion of the extended family often also seems to be carried forward to Canada during the process of immigration.

- There are traditional disciplinary methods used for children that maybe acceptable in other countries of origin. However, these methods and practices often conflict with Canadian laws. Witnesses may report what is considered inappropriate and unacceptable behaviour by adults towards children, at which point Child and Family Services may become involved (see section 7.10 for more information). This involvement of the authorities may be a shock to parents, who may not be aware of which practices are acceptable by law in Canada and which are not, particularly where language barriers exist.

- Women are sometimes sponsored to Canada by their husbands, often leaving them dependant on their spouses. They experience isolation without contact with family and friends in their country of origin. Depending on their degree of prior knowledge about Canadian law and customs, women may be unaware of their rights in Canada. Men may use false deportation threats, demand obedience of their wives and discourage them from leaving the relationship.

- Those immigrants sponsored under the Family Class\textsuperscript{67} are left vulnerable and dependent on their sponsor for 10 years if they are unable to support themselves. Welfare may not be available, leaving them helpless and prone to abuse. Amidst the frustration of settling in a new country, those so sponsored may return to their country of origin.

- The immigration process appears to present additional obstacles involved in elder abuse. Parents are often sponsored to Canada by their children and are dependent on them, as they may not have the financial means to support themselves. Any money earned may be taken away by their children or grandchildren. They are given the responsibility of taking care of their grandchildren, and are not permitted to socialize and meet new friends. This may leave them isolated and uninformed of services and resources available to them in Calgary. Language becomes more difficult to learn as one

\textsuperscript{67} As outlined by Citizenship and Immigration Canada. Further information can be found on the Citizenship and Immigration Canada website: http://www.cic.gc.ca/english/immigrate/sponsor/index.asp.
ages, further isolating elderly immigrants from Canadian society and creating a barrier to seeking help in circumstances of abuse.

10.4 Chinese Community

Cultural Customs and Values

- Chinese culture is one with internal diversity (intra-cultural diversity), as Chinese originate from and reside in a number of different countries.
- The most common geographic origins of Chinese Immigrants include:
  - Hong Kong, Macau, China, Vietnam, South Asian countries and Taiwan.
- Status and position in the community is critically important, especially to Chinese men.
- “A lot of male immigrants from China tend to be highly educated, therefore, they do not like to be told what to do, but rather informed as to where they can go for help, resources, services, etc.”
- Financial stability and well-being is paramount to Chinese families.
- There is great respect for elders within the Chinese community.
- “Saving Face” is very important to the Chinese people. Hence, domestic problems and abuse are considered ‘family matters.’

Incongruity between Country of Origin and Canadian Values:

- Domestic violence is viewed as a private family matter.
- Physical punishment and threats are still utilized as a form of discipline of children.

Family Structure

Traditional Female Role:

- Women care for children and elders, and deal with housework;
- Women are often subservient to their husbands and are “expected to be submissive;”
- Traditionally, they served a supportive role in farming families, prepared meals which they often took out to the field for their husband;
- Today, many women work outside of the home, and are gaining independence and adopting a more western outlook on ‘sharing of household chores’ with the husband;
- Husband’s demands do not carry as much weight as in the past.

Traditional Male Role:

- Financial decision maker;
- Traditionally, no family/household chores are done by the males. This is changing among Canadian Chinese, with many more males participating in household chores;
- Used to enjoying high status both within the family and community;
- Chinese men in Calgary continue to be the primary breadwinner;
• Usually disciplines the children.

Type of Family:

• Traditionally, Chinese society has adhered to the extended family structure, with several generations living in the same household, headed by the eldest working male.
• The traditional extended family structure is now very rare: The enforcement of a one-child policy has had an impact on the family size in China.
• Traditionally, when older generations live in the home, they “tend to be the caregivers for children.”
• Children generally live with parents until they are married.
• A son and his wife will often continue to live with his parents.
• Immigration and migration have significantly changed the familial structure.
  o The elderly do not have financial control, often due to sponsorship arrangements for immigration. They often live in their children’s homes due to financial constraints. Their main function is childcare within the family;
  o Often, conflict may arise between traditional and ‘Canadian’ practices;
  o Conflict may also arise between wife and mother-in-law.
• Inheritance is patrilineal (man’s side of family).
• Females tend to marry later, with marriage no longer being viewed (by some) as essential.
• Many women now work outside of the home.
• Elderly are highly respected and the young are obliged to take care of them.
• Serious decision-making may involve husband, wife and extended family.

Children:

• Parents are very loving and will do everything they can to help their children, but they sometimes use inappropriate disciplinary methods (by Canadian standards).
• Physical discipline and use of threats (emotional abuse) is still common, despite being unlawful.
• Physical discipline is believed to be good for the children. This value and practice may continue from one generation to another.
• Parents have high expectations, especially academically, and children are expected to behave according to their parents’ expectations.
• At times, parents may use lavish financial/material incentives to have children conform to their expectations and as a way of ‘control.’
• Parents do not normally play with children, as they are expected to play quietly by themselves.
• Verbal encouragement is rare, but verbal demands are common.
• Most parents expect their children to obtain professional positions (e.g. doctors, lawyers, engineers, accountants, etc.) that generate money and status. Children may feel a great deal of pressure.
• Disagreements in parenting style can at times cause difficulties for couples, leading to stress in the home.
Marriage and Divorce Attitudes/Customs/Practices

Dating:

- Although males have more freedom than females, parents do not expect/condone their teen children to date or have sex.
- Many more restrictions are placed upon teenage girls regarding dating.

Marriage:

- Most marriages are now love matches, and arranged marriages are becoming a thing of the past.
- Widowed men, living in Canada, often go to their country of origin to find a bride.

Divorce:

- Within the Chinese society, divorce is viewed as a disgrace.
- Divorce is not discussed with relatives or outsiders.
- “Rather than divorce, couples will try to do everything in their power to tolerate each other.”
- However, divorce rates among younger generation Chinese couples are on the rise.

Religious / Spiritual Beliefs and Practices

- Ancestor Worship, Buddhism, Catholicism and other Christian denominations are the primary belief systems practiced.
- In Calgary, most Chinese churches have their own counsellors to deal with issues of domestic violence.
- Ancestor Worship (Most dominant)
  - Patrilineal ancestors are worshipped.
- Buddhism
  - Originally a philosophy, but is now practiced primarily as a religion;
  - Goddess of mercy and Buddha are the most popular icons of worship.
- Taoism
  - A philosophy and religion, based on law of nature;
  - Puts gods/deities into hierarchy.
- There is little distinction made between Buddhism and Taoism; many Chinese practice both without knowing the differences between the two and mix these two belief systems together.
- Christianity (in Calgary)
  - There are many Protestant churches and one large Catholic church in Calgary with services in Chinese.
  - There are many difficulties between daughters-in-law and mothers-in-law related to religion and belief practices, especially with religious practices in the
Young Chinese men and women are moving away from the traditional forms of worship to Christianity, which may produce some conflict in the family.

**Immigration and Settlement**

- Two of the largest problems Chinese immigrants face are language barriers and cultural changes.
  - Life in Canada is slower paced;
  - Most Chinese immigrants are accustomed to large cities;
  - Canada is less technologically advanced than Hong Kong.
- There are approximately 100,000 people of Chinese descent in Calgary.
- 90% of immigrants find it difficult to get back to the high income and status they enjoyed prior to their settlement in Canada.
- There are many Chinese who come from Vietnam; they are more traditional in their behaviour and practices than those coming from China. Their ancestors went to Vietnam approximately 100 years ago.
  - More traditional = extended family structure and mindset;
  - One respondent indicated that many men would get rid of their wife to please their mother, whereas in Hong Kong, the men would get rid of their mother to please their wife.
- Canadian born Chinese (CBC) are often considered “white” or “western” in their thinking.
- Often, children who have immigrated to Canada will sponsor their parents, whose role once in Canada changes to that of being ‘babysitters’. This may contribute to the incidence of elder abuse as they take advantage of their parents’ vulnerability (which is compounded by language barriers and not knowing their rights):
  - Additionally, the change in their status, from one of respect back home, to dependency upon others (their children in Canada), decreases their self-esteem and increases stress.
  - This may be compounded by the lack of financial resources as the children may not give their parents money, or may have control over the parents’ finances leaving them essentially destitute.
  - This stress may contribute to illnesses, leading to feelings of powerlessness, lack of purpose, “being a burden”, etc.

**Language Barriers:**

- In general, females have an easier time adapting to the language.
- Males are not as enthusiastic as females about taking ESL classes.

**Employment Related Issues:**

- Credentials of new immigrants are often not recognized in Canada:
  - Canadian laws and regulations create huge restrictions (such as the need for Canadian experience).
  - Many take professional exams but do not pass.
  - Many take ‘menial labour jobs’ although they may have been trained doctors, lawyers, and teachers in their country of origin.
  - Many initially leave their family in China/country of origin, find work in Canada and send money back to their families.
Women have an easier time getting employment because they are willing to take on labour/lower status jobs and are not as concerned about their status as Chinese men.
  - Women working outside the home may impact care of children, as men do not consider it their ‘role’ to take care of children.

Females have gained greater status following immigration because of their ability to work outside the home.

Males are forced to take less prestigious jobs than they had in their country of origin or than their wives have. This lowers their self-esteem as they feel useless because their wife is “better than them”.
  - This change often leads to “psychological conflict and anger”.

Males may resort to gambling in order to pass the time; men are often the principal applicant when immigrating, but upon arrival in Canada, have difficulty finding work. Some may then resort to gambling and drinking.

A cycle: A quarrel at home can trigger the gambling and drinking behaviour, or gambling and drinking can be followed by a quarrel at home.

These behaviours can contribute to incidents of domestic violence or the increase in the severity of abuse being inflicted.

Refugee Experience/Strife: War and Displacement:

Most Chinese immigrants have not experienced war or forced displacement, however, Chinese people from Vietnam or Cambodia will often have had traumatic experiences.

Many have experienced political movements and turmoil.

Domestic Violence in the Community

Immigrant life (the immigration and settlement process) creates a lot of tension, which may contribute to domestic violence and abuse in the home.

In the Chinese community/family, tensions may arise between:
  - Husband & Wife;
  - Children & Parents;
  - Mothers-in-law & Daughters-in-law;
  - Many conflicts occur if children are ‘westernized’ (food, behaviour and attitudes);
  - Mothers who may have power struggles with grandmothers, especially if children love grandmother.

Gambling may become a problem among men in the Chinese community:
  - Heavy losses create stress and may lead to incidents of domestic violence.

Child rearing practices and discipline may be an issue; lack of discipline brings stresses which may impact spousal abuse patterns.

Money and financial hardships are the number one stressor impacting domestic violence.

Abused Chinese women are encouraged by friends and relatives to stay in the relationship, believing the man will change.

Additionally, language barriers and the cultural concept of not bringing shame to the family often prevents them from leaving abusive relationships.

There are no community-based supports to help women flee domestic violence in their country of origin, which is accompanied by a lack of understanding of ‘western resources’ in Canada.

If a woman discloses domestic violence/abuse, the situation may become much worse.
• Because of the family structure, where couples live with the husband’s family, his mother will tend to back up the son’s actions against the wife.
• Immigrant women are often alone with their husbands as the only connection to the broader community, and to all outward appearances they look like the ‘perfect couple’.
• Trust must be built slowly – by doctors, friends etc., before a domestic violence disclosure would be made.
• Non-Chinese service providers should ask the victim or family seeking help as to ‘what would they like to be done’ and work from that perspective.

Impacts on Disclosure of Domestic Violence:

• Domestic violence is viewed as a “private family matter”; “they do not wish to bring any issues to the authorities”.
• Elder Abuse and In-law Conflicts:
  o Different values that are generational in nature;
  o One who has power and control in the family controls actions of other family members;
  o If a husband sponsors his parents as immigrants to Canada, the mother-in-law may be regarded as an “outsider” and may suffer abuse at the hands of her daughter-in-law.
  o If a son or daughter-in-law is the boss, there may be a high risk of elder abuse.
  o If the husband’s parents are in charge, wife abuse may be ‘supported’ by the in-laws.
• Many males have suffered emotional abuse by their wives:
  o Many cases are not reported (as men will ‘tolerate’ the abuse). They may go gambling, drinking, or use other inappropriate means to cope.
  o Mental suffering from having their wife and mother fight;
  o Example: A woman may start a physical struggle and the man will get charged.
  o Example: A woman calls 911 to intimidate the husband and then says the husband stopped her from calling the police.
• If men do not like their wife’s behaviour, they may feel justified beating her up.
• Generally, Chinese people do not want domestic matters to be known by others:
  o They do not want to seek help from professionals.
  o If a matter is to be dealt with, help is only accepted from extended family and very close friends.
  o There is fear of the community’s stigma with respect to family difficulties.
• Stress Management:
  o Chinese males are expected to face problems and cope with difficult situations on their own, but they often give up easily, and this affects their family relationships. Chinese men may have little help dealing with stressors.
• Poor past experiences with government authority or law enforcement; some of these views are held traditionally rather than as the result of direct experience.
  o For many Chinese who are influenced by a traditional concept, government, law enforcement and the justice system are viewed as being the same;
  o In the past, many have been humiliated and tortured (whether guilty or innocent) and often the judge is viewed as having the final say, without influence of other court proceedings.
• Fear of the justice/judicial system severely impacts the utilization of services, and in cases of domestic violence, often prevents full disclosure.
Children:

- Traditionally, the male child is considered most desirable - carries the family name and is entitled to family inheritance.
- Children are valued and generally are the focus of family attention in their early years.
- Parenting and early education traditionally take place within the home. Chinese families highly value the education of their children.
- Children are raised in a mostly “Canadian” environment that shapes their values and behaviours (with being less emphasis on traditional Chinese roles):
  - Children do not like it when their father bosses their mother around;
  - Children grow close to their mother and take sides with her, which serves to further anger the father, and quarrels may result;
  - Conflicts in matters of child rearing between mother-in-law and daughter-in-law;
  - The Canadian environment may influence their choice of preference in food at home or when with their peers.
    - The children’s identity versus fitting in with their peers may be an issue.
  - Children do not want to go to Chinese school although their parents expect it, resulting in conflicts.

Elderly:

- Traditional responsibility for care of the elderly lies with the family and the oldest son and his wife; otherwise unmarried children have the greatest obligation.
- The elderly are not aware of the availability of resources to deal with problems.
- Many believe that even if such resources exist, they are not available to ‘sponsored immigrants’.
- Additionally, many fear their sponsorship will end and deportation will result, therefore they do not report abuse.
- Many elderly do not know what to do if they are abused, and are too ashamed to admit it, believing they ‘raised their children wrong’.
  - Because of their need to ‘save face’, when Chinese call for assistance, they often discuss it as a ‘friend’s problem’ rather than admitting it is theirs.
- Some will use the Kerby Centre in Calgary, but this is rare.
- Many seniors will contact churches for help.
- Sponsored immigrant elders are often required to do the housework and care for grandchildren.
- They experience financial abuse (loss of control of their own finances they had to their children).
- Some adult children restrict their in-laws’ freedom to be with friends or to practice their religious beliefs.
- Many daughters-in-law view the sponsored grandparents as a burden to the family rather than an asset.
- Grandchildren often take financial advantage of grandparents, by borrowing and not repaying loans.
- Children may tell parents to ‘sign off their house to them’ and give away everything, in order to receive government pension.
• If seniors do not speak the language, their children may look after their finances and withhold their Old Age Pension from them.

Management in Country of Origin:

• Domestic violence is a private family matter and is not dealt with outside of the home.
• When domestic violence is exposed to the public, the situation is usually very severe.
• Generally there is no shunning by the community if domestic violence is an issue and is being addressed through disclosure, etc.

Management in the Canadian Context:

• Chinese women in Canada often know about the resources, quite often because they talk to their friends.
• It is difficult to change the ‘domestic violence is a private family matter’ idea.

Barriers Encountered:

• Many people in the Chinese community do not know the Canadian legal/justice system and the processes involved. This may create barriers to utilization of helpful resources.
  o They need to be informed about resources such as Restraining Orders, Emergency Protection Orders, etc.
  o Once there is police involvement, those who are abused believe that even though the abuser has not been convicted, that they have a criminal records and this may in turn exacerbate the abuse and violence. Involvement with police brings shame.
• A Chinese male will not easily pick up the phone to call for help or seek a counsellor.
• Mental health/emotional health issues are stigmatized in Chinese society.
• Communication:
  o Men are often reluctant to share information, even with their wives;
  o Many keep things to themselves until “they just burst” rather than talk about the issue(s) or seek counselling.

Incongruity between Country of Origin and Canadian Values:

• Despite the cultural perception of ‘respect for elders’, immigration and settlement stresses often impact this age old ‘value.’
• When elderly parents become dependent upon children after immigration, it may give rise to various forms of abuse, including financial, isolation, physical abuse and neglect.
• Multi-generational families may experience several different forms of abuse and have several different victims within a single family:
  o Husband abusing wife;
  o In-laws abusing or supporting daughter-in-law’s abuse;
  o Children abusing sponsored immigrant parents;
  o Abuse impacting children in the home.
Cross-cultural Communication Tips

- Greet one another by bowing heads & smiling. It is most polite to use Mr. & Mrs. particularly with older clients, so as to show respect.
- Indirect eye contact may be a sign of respect.
- Out of respect, clients may nod, and not ask questions. It is important to clarify understanding.
- Privacy is highly valued as it is important for families to “save face” and maintain respect.
- Body contact beyond a handshake, for example kissing and hugging, is uncommon.
- May not be familiar with the need to make appointments with community professionals.

Further Information

Asian Canadian


Calgary Chinese Community Services Association

CCCSA empowers current and future generations in the Chinese community by acting as a bridge to mainstream institutions and organizations, through education, facilitation and advocacy in addressing multicultural and diversity issues. www.cccsa.ca

Calgary Chinese Cultural Society

Chinese Immigrant Orientation Program. This program is helpful for new immigrants to Calgary. http://www.ebridge.tv/ciop/english.cfm

Chinese Canadian National Council

Asian Canadian Online Cultural Project. Includes news, resources, projects, and upcoming events. http://www.ccnc.ca/

10.5 Korean Community

Cultural Customs and Values

- There is much respect for family and traditions.
- It is tradition as well as etiquette for women and children to respect their elders, and obey their parents.

Family Structure

- Family is very important, and self-esteem stems from family and its honour/respect within the community. Much of life focuses on family roles and obligations.
- Important family values: cohesion, interdependence, hierarchy in relations, and harmony.
Prior to 1960, the extended family structure was prominent. After 1960, there was a move towards a more nuclear family. This was driven by economics and the need for all to find work to provide for the family. A family planning program was implemented by the Korean government to drive economic growth and population control.

**Traditional Female Role:**

- Obedient;
- Woman often considered caregiver and responsible for the home,
- The husband is expected to hand over all or most of his salary to the wife, who manages the family finances.

**Traditional Male Role:**

- Dominant position;
- Males have control over many aspects of family life; most decision-making is by the father, though there is now more focus on family involvement;
- Husband, father or eldest adult child usually acts as the family spokesperson;
- Does not usually deal with household chores such as shopping.

**Family:**

- Extended family structure with several generations living either in the same house, area or town;
- “In-laws often live in the same fence” – very close by;
- Hierarchical/patriarchal structure;
- Outsiders are newcomers and the in-laws must know about their background.

**Children:**

- Expected to be obedient and responsible;
- Focus on family interdependence;
- Education highly regarded.

**Elderly:**

- Have high amount of respect;
- Welcomed to live with the family;
- Grandparents often involved in care of grandchildren.

**Marriage and Divorce Attitudes/Customs/Practices**

- There are an increasing number of divorces now in Korea.
Some young men from Korea come to Canada to marry a Korean woman who was born or has grown up in Canada. The man often does not speak or understand English, or the Canadian way of life to function effectively.
  o The husband may become easily frustrated and often blames his wife.
  o These situations may result in separation or divorce.

**Religious/Spiritual Beliefs and Practices**

- Predominantly Christian, though influenced by Shamanism (spirit worship), and Taoism, Buddhism, and Confucianism were originally practiced.
- Chanting and praying are common and often people utilize a mixture of faiths.
- Traditionally, the church is the centre of the community, involved in every area of life, including providing such information as job opportunities and resources.
- Christianity became part of Korean society about 200 years ago.
  o It originally resulted in misunderstandings and conflict, as it was a new religion introduced by western countries (did not follow a dominant male structure in the household).
  o Over time there was a change in the mindset of people, resulting in a new movement of love, caring, mercy, acceptance and equality.
- Buddhism: identity is discovered through helping others, meditation and prayer.
- Confucianism: ideas of team, army, parents and husband and their importance are central.
  o Basic principles emphasize:
    ▪ Loyalty to the king;
    ▪ Differences between husband and wife;
    ▪ Trust relationship among friends;
    ▪ Respect for elders;
    ▪ Respectful relationship between children and their parents.
- Religion and religious practices contribute to respect for children, elders and wives.

**Immigration and Settlement**

- In Canada in the 1970’s, men would invite their fiancées here from Korea, while others went to Korea for an arranged marriage and brought their wives to Canada.

**Language Barriers:**

- English is not common among new immigrants.

**Refugee Experience/Strife: War and Displacement:**

- From the 1960’s to the 1980’s there was a great deal of violence and internal strife in Korea.
• There were many demonstrations from the 60’s to 80’s for justice, freedom and human rights, as well as to establish a democratic society.
• At issue was how to keep balance between the powerless and powerful.
• Many students and citizens raised their voices against a dictatorship regime.
  o Some generals and soldiers took power by force, thereby controlling the Korean government and society. They did not allow freedom, human rights and democracy.

**Domestic Violence in the Community**

**Impacts on disclosure of Domestic Violence:**

• In Korea, it is a shame to expose domestic violence, both for the family and the individual.

**Management in the Canadian Context:**

• In Canada, when Korean women feel threatened by their spouse, many know about available resources and how to get help.
• Even those individuals who have been in Calgary for only 3 to 5 years know a lot about the city and the resources available, such as cultural associations/immigrant serving organizations.

**Barriers Encountered:**

• Language;
• Shame still may be an issue.

**Cross-cultural Communication Tips:**

• When comfortable with another person, it is acceptable to use touching, friendly pushes, or hugs. Touching is considered disrespectful among strangers unless for medical purposes.
• As within Vietnamese culture, it is considered rude to direct the sole of a person’s foot or shoe towards another individual.
• Direct eye contact not used unless the person is very comfortable with another.
• Silence will exist among strangers, while it is less common among those familiar with each other.
• Should use Mr., Mrs. or other pronouns and the last name unless the client requests differently.
• Respect for elders is important and is often demonstrated by slight bow.
• Tone of voice varies, with loudness placed on what is considered important, it may seem like arguing. Commands are louder and authoritative when directed to someone younger while may be softer and quieter with an elder.
• Note: January 1 is considered every Korean’s birthday, and they add a year to their age on this date regardless of the date on which they were born.
• It is important to use family members as interpreters when possible, as the client is more comfortable. Gender issues are less of an issue in the professional setting.
• There were 3,885 Koreans living in Calgary in 2001.68

Further Information:

Asian Canadian

Information on the Chinese, Japanese, Korean and Vietnamese communities. Links to non-commercial, culturally based organization websites.
http://www.asian.ca/community/

The Federation of Korean-Canadian Association

Lists Korean associations across Canada.
http://www.koreancanadian.org/branch.htm

10. 6 South Asian Community

South Asian communities include people from India and Pakistan. Within India, a distinctive ethnic and cultural group includes the Punjabi people.

Cultural Customs and Values

• A patriarchal society; people are humble and hardworking.
• Women are expected to be selfless, always putting themselves last. This leads them to believe they are self-sacrificing martyrs.
• Education is valued for girls both in Canada and in India.
  o Increasing number of females are joining the workforce.
• Traditionally, women’s needs are neglected, due to their dependency upon men and the men’s control over finances. However, in some larger urban centres, there are women who do not agree with this mentality.
• People do not talk about their emotions. Since they have never been exposed to talking about feelings, they find it difficult to express themselves.
• By remaining within their own community, they feel a sense of belonging and inclusion. Therefore when immigrating, rather than immersing into a completely new culture, they seek to live in an area where there are ethnic grocery stores, places of worship and other services that allow them to adjust to a new environment in a more comfortable context.
• What others think about them is a central part of life.
• Community can be a strength, but also a problem, as family issues may be ‘gossiped’ about.
• Alcohol consumption is an issue, men are usually the drinkers.
  o Wives are often helpless to control or stop the drinking and put up with it.
• Family honour is important now and for future generations.

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68 Demographics, Calgary Economic Development Authority 24 April 2008
<http://www.calgaryeconomicdevelopment.com/liveWorkPlay/Live/demographics.cfm##ethnic_diversity>
Family Structure

Traditional Female Role:

- Stays at home;
- Raises children;
- Household and cooking;
- Takes care of the husband’s parents.

Traditional Male Role:

- Breadwinner.

Family:

- An extended, patriarchal family;
- Family is the most important social unit, and includes parents, children, and grandparents, brothers, sisters, and their families.
- Traditionally the extended family lives together in one household. The extended family provides the identity of the individual as well as economic and emotional security. Interdependence valued.
- Earnings are often pooled in an extended family. Sometimes, either the grandmother or the eldest son manages the finances.
- In Punjabi families, the grandfather takes responsibility of the finances (management), and son and his wife are expected to agree with his decisions.
- Most decisions are made by the head of the household – often the most established financially secure male.
- Close relatives are consulted for all important decisions.
- The opinions of relatives and other members of the community are held in high regard and gossip can be used to affect social control.
- The majority of sons that marry remain at home with their parents. The grandparents will often help their son by taking care of the children if both parents are working.
- The eldest daughter-in-law often “takes charge” of any other daughter-in-law living under the same roof, as if she is the “boss” or supervisor. Mother-in-law and daughter-in-law relationships can be strained.
- If a woman marries into a controlling family, they may prevent her from seeing her own family (a form of isolation in order to control).
- Family matters are considered private, especially negative matters like violence and abuse.
Children:

- South Asian families are patriarchal, and male children are often preferred as they carry on the family name as well as tradition.
- It is a not uncommon for children up to the age of 12 to share a bedroom with their parents or with siblings of the opposite sex.
- The family energies revolve around taking care of children.

Elderly:

- When South Asian parents grow old they expect to be cared for by children, particularly sons, and the sons recognize this obligation. Women are more commonly involved in the daily care.
- The reversal of traditional patterns of dependence and authority can cause conflicts and a loss of self-esteem/depression in the elderly.
- Elders expect to be taken care of by their children, specifically by their son and his wife.
  - Daughters, upon marriage into another family, are then expected to care for that family.

Marriage and Divorce Attitudes/Customs/Practices

- A common-law relationship is not acceptable in an Islamic country such as, Afghanistan, or Pakistan, and a couple cannot live together if they are unmarried.
- The traditional view is that husband is god and woman worships him.
  - God provides for humanity, and a husband provides for his family, therefore a husband is to be looked up to by his family as though he is God (someone to respect).

Marriage:

- Marriage is considered a religious contract.
- If living in Canada, the Punjabi and Pakistani Muslim families will often still practice arranged marriages. Some Indian families also practice this.
- Outward demonstrations of affection, including physical touching in public are frowned upon.
- Although the practice or providing a marriage dowry was outlawed, it is still practiced.
- The family usually investigates a possible husband for a girl.
  - In early stages, the girl has the right to refuse the marriage.
- Forced marriages still take place.
  - Younger women are forced to marry older men when coming to Canada.
  - Parents make an arrangement with the husband and his family and at times still receive a dowry (money or goods).
  - Forced and arranged marriages are more vulnerable to domestic violence and abuse.
- Punjabi women in Canada are often well educated, and possibly better educated than their husbands, which at times causes the men to feel threatened.
More recently, there has been an evolution of marriage in order to immigrate to Canada.
  - Creates sponsorship issues: Punjabi men from Canada often go to their country of origin to find a bride and may in fact marry relatives of Canadian friends so they can bring their relatives here.
  - These relationships cause conflicts in the marriage, which may lead to domestic violence and abuse.

If widowed:
  - **Ismaili Muslim**: There are no taboos if the woman wishes to get re-married.
  - **Pakistani**: Most women remain single.
  - **India**: Women are not supposed to get re-married. The only acceptable means of re-marriage is if the husband had a younger brother who is single.

Sometimes the daughter-in-law may not contact her family once married:
  - She may be forbidden to see them;
  - Her support system is taken away from her.

Divorce:

- Couples are expected to stay together; this and the additional stress of immigration can sometimes result in violence. Sometimes a woman is in Canada without her extended family and is more isolated without support for such issues.
- If Muslim from South East and Central Asia are legally divorced in Canada, they may not know how to get a Muslim divorce in their country of origin. They cannot return to their home country unless they have a Muslim divorce.
- A South Asian woman who has separated from her husband is unlikely to initiate divorce proceedings because it is more acceptable for a man to leave his wife and children and initiate divorce.
- Divorce is becoming more common; though not approved of, there can be acceptance of divorce by a family.
  - Women often do re-marry following divorce.
- Sometimes even after a divorce, a couple will continue in many ways as if still married. A man may occasionally stay with his ex-wife and children, and the community continues to address them as husband and wife.
- In their country of origin, divorce is not an option.
  - Many women were burned alive in India, and this practice was justified by saying she has been unfaithful.
  - Some commit suicide, as a way of getting out of an abusive relationship.
- Some may choose to leave the relationship through a no contact order.
- In some cases, if a woman leaves her children with her husband she is considered a bad mother.
- For a Muslim family, however, it is expected that the husband’s family maintain custody of the children.

Religious/Spiritual Beliefs and Practices

- Religion is very valuable.
- Some women have confidence in astrological guidance.
- The most common religious groups in the South Asian communities in Canada are the Hindus, Sikhs and Muslims, although there are some Jains and Christians.
• In Pakistan, the majority of people are Muslim. Other religious practices include Hinduism, Christianity, Judaism and others.
• In Iran, Afghanistan, and Iraq, Islam is the predominant religion, although there may be other religions/spiritual beliefs practiced.
• In India, Hinduism, Buddhism, Islam, Sikhism and Christianity are most prominent, while there may be others.

**Hinduism:**

- Concept of the unity of life; all life is interdependent, both human and animal, and is a continuous circle.
- After death, the soul is reborn in another life form which is determined by behaviour in former lives. This is the law of Karma.
- In the Hindu scripture Rig Veda, the husband and wife are described as taking equal part in sacrificial rites – establishment of equality.
- However, later on, a lower status was imposed upon women as compared to men, as the inherent attractiveness of the female was considered a hindrance to spiritual evolution.
- Strict Hindus believe in non-violence against living things and abstain from meat or fish. The more orthodox, especially women, also do not eat eggs.

**Sikhism:**

- Sikhism includes Hindu concepts of reincarnation as well as Karma. However, representation of God in pictures and the worship of idols are forbidden.
- The most important ceremony for a Sikh is that of baptism. Baptized Sikh men wear turbans and do not cut their hair or beards. They wear a comb, white undershorts symbolic of chastity and typical of solders, and in their home country a small symbolic sword.
- No significant dietary restrictions, but many Sikhs are vegetarians by choice.
- The majority of Punjabi people in Canada are Sikh.
  - Sikh faith is based on the teachings of the GURU, and core value is Truth.
  - Children are brought up with these strong values.
- The priest becomes the counsellor.
- Purity is a strong value for women.
- “The Sikhs have a deep spiritual core, and religion is the foundation of their law. Domestic violence occurs when people have moved away from their core values.” The law of the country will not have the same effect on lifestyle as the “law they have entrenched in their bones which comes from their religion. This law is really no different from what the Canadian law requires.”
- Sikhism believes in human rights: the first Guru stated that women are equal to men

**Islam:**

- “Islam” means “submission” and a Muslim is one who submits to the will of God, rejects all other gods and follows the teachings of the Koran, the holy book.
- Ethical conduct requires: generosity, fairness, honesty and respect.
• Muslims follow dietary laws of the Koran – forbidden to eat pork or the blood of any animal.

Immigration and Settlement

• The immigrant husband may tell his wife myths about deportation if she calls for help:
  o Women do not know their rights in Canada.
  o The women are told they will not be able to sponsor their family to come here.
• Women’s belief systems are challenged here, as some begin to feel caught between the Eastern values and western culture. They find it difficult to put themselves first and may feel they are being selfish if they begin to think about themselves rather than their family or country. Their belief of selflessness from their country of origin is not understood in Canada, and this sometimes leads to depression and eventually their desire to return to their country of origin.
• They come here for a “better life” but end up working harder (often 2 to 3 jobs) to be able to sponsor their family to come to Canada.
• Their education and credentials are not recognized, and one may find a doctor working as a cab driver. This can have a significant impact on ones’ emotional well being.
• In Canada they find that often both husband and wife must work to make ends meet.
• They are often disappointed when they come here because this is not the paradise they believed it to be.
  o They are unaware that there are rules for getting services, and are unaware of the laws.
• When immigrating to Canada, extended families often exist.
  o Some extra pressures are imposed upon the women here in Canada, including increased expectation to help provide for family.
    ▪ Women accept the increased responsibility of providing financially for the family, while being expected to continue their role of taking care of the household and childrearing.

Language Barriers:

• Although some South Asian immigrants speak English, it is the British form (carrying a heavy accent), so they still experience a certain degree of discrimination.
• Many come not realizing what level of English is needed, or that English is needed. Due to lack of language capacity, they become isolated in their community, preventing them from learning about resources. They become even more traditional than in India, as they seek to retain their identity.
• Not many counsellors speak their languages.

Service providers are being asked to translate in court, potentially placing service providers in danger. The community may be small, and a partner may recognize the worker who is translating in other community settings.

Employment Related Issues:

• Language barriers often create problems in getting a job and receiving services.
• Lack of recognition of credentials and experience from their country of origin for men.
• Men experience a great deal of stress at having left everything behind:
  o Loss of status;
  o Women must be tactful when dealing with men – not accusatory. Because of loss of status, men maybe insecure and women must deal with them differently.
• Women, although educated, take on menial labour jobs as their credentials and work experience are not recognized (lack of Canadian experience).
  o They continue to retain the role of looking after the household and child care.

**Domestic Violence in the Community**

**Family Dynamics:**

• The father-in-law has *less* power than the mother-in-law. The mother-in-law is often the abuser, as she may have gone through the same situation as a daughter-in-law herself. Her own experience of abuse may have “normalized” abuse.
  o There is emotional/verbal/psychological abuse regarding dowry.
  o If the daughter-in-law is unable to conceive, the mother-in-law may encourage her son to marry someone else.
• Sisters-in-law may be verbally and emotionally abusive as well.
• The husband will often support his mother and sisters rather than his wife, as they are family, blood relatives.
• If the wife is more educated and capable than her husband, her husband may abuse to subdue her.
• There are gossip and rumours in the community if they hear of any separation.
• The value of self-sacrifice is promoted for women by some individuals within the community.
• Counselling is perceived as only for those with mental health problems.
• Service providers need to realize there are ideological differences between Eastern and Western society.
  o Those coming from the East also need to realize that abuse is not acceptable in Canada. Education is key.
• Traditionally, there is little help for abused women in the Punjabi culture.
  o Women are often told to put up with the situation they are in.
• Domestic violence is not talked about; it is considered a private family matter.
• Punjabi term for domestic violence exists: “Ghareloo Hinsa” which means “home violence”.
• Added responsibility is placed upon a Punjabi woman in Canada, of providing financially for the family, along with her responsibility to raise the children and take care of the home. This creates stress, contributing to relationship breakdown.
• They experience a loss of previous support systems, such as the extended family, who may have helped hide the incidence or severity of abuse and violence, or prevented the abuse.
• The husband, due to demands of the Canadian way of life, may also work more than one job to support the family, spending a great deal of time away from home. This can create a lot of stress leading to conflict.
Impacts on Disclosure of Domestic Violence:

- Domestic violence is still considered a private family matter and is to remain within the family.
- If they agree to access help, clients will often ask providers to work with the family in their home.
- They are afraid of authorities and therefore do not tell them about the abuse.
- Women rarely use shelters. They fear isolation and poverty.
- Those in the community who try to help victims are ostracized, along with the victim.
  - Social workers must be careful about their own safety.
- They will sometimes refuse to talk to a counsellor within their community for fear that the counsellor may talk about their situation in the community.
  - The counsellor must become well known and trusted.
- Attempts can be made to resolve the problem without breaking up the marriage.
  - Much pressure is put upon women to tolerate abuse; hence most abuse remains hidden.
  - May use traditional counselling, encouraging the women to stay in a relationship, despite the abuse she is experiencing – for the sake of the family and community at large.
- Women are taught to endure. This is sometimes to the point where a mother may exhibit aggression towards her children. The children then become aggressive themselves.
- A woman cannot tell her own family about the abuse because she believes the stress would harm her parents.

Management in the Canadian Context:

- Women learn about 911 as a means of getting help.
  - They may be unaware of the possible outcomes and are unhappy with police laying charges and then going through justice proceedings.
  - They do not want their husband to get a criminal record because of the impact upon children’s future happiness (in finding an appropriate marriage partner).
- Many women still do not know about other resources to utilize such as outreach workers and counsellors.
- It is sometimes humiliating for a woman to go to an agency for assistance.
  - Few, if any, agencies exist in India, and family counselling is rare.
  - Many women are unaware of agencies that help with domestic violence and abuse issues. They are often reluctant to access help even when they know about agencies.
- Fears/issues faced by Indian women in Canada:
  - Who will take care of me and the children if I leave?
  - How will I find work that will support us?
  - They are unaware of their personal immigration status, and therefore fear deportation.
  - They are unaware of how to open a bank account.
  - Fear of community opinion and reprisal.
Barriers Encountered:

- In Canada, women gain a level of independence greater than that in India, often due to working outside the home. Due to these additional social interactions, they become knowledgeable about their rights in Canada.
  - Despite this increased level of independence, many women are unable to control their own finances and therefore find it very difficult to leave an abusive relationship.
  - Women do learn about 911 and may use it as a resource to put pressure upon husbands.
  - Although they know of the possibility of action as a result of a 911 call, they are often not aware of the scope of police enforcement (police right to charge, and the victims inability of have charges removed). They are surprised once a husband is charged and possibly, in time, has a criminal record.
  - This fear is exacerbated by the need for family status and the fear of being unable to find appropriate matches (spouses) for her children.

- When instructed to seek help for any form of abuse, the attitude is “What are these people going to teach us?”

- It is very difficult for a woman to escape an abusive relationship, because she is not only escaping her abusive husband but his entire family as well (who may have supported or have turned a blind eye to the abuse).

- Women must be very strong to pursue help for domestic violence and abuse:
  - Will be stigmatized and shunned by the community;
  - If she divorces, it will be difficult for her to find ‘matches’ (husbands and wives) for her children.

- Domestic violence is often equated with a life-style.
  - If a woman wants to or tries to stand up for herself, she is seen as the problem.

- If there is conflict, the man will be combative and want to win.

- In Punjabi society, awareness about domestic violence, appropriate actions, and community support for families experiencing domestic violence and abuse must come through the Sikh temples (Gurudwaras).
  - It is considered a safe place to go and resolve issues;
  - A safe place where a husband may let his wife go.

Cross-cultural Communication Tips:

- Traditional greeting: palms of the hands pressed together in front of the chest. Shaking hands particularly by women or between women and men is not common.

- Direct eye contact may be considered rude and disrespectful, especially with elders. Physical affection rare even among family and close friends, and is considered extremely inappropriate between members of the opposite sex, including husband and wife.

- For some groups, it is not appropriate for a woman to even state her husband’s name in public, and many women are expected to walk a few steps behind men.

- It is more acceptable for elders to give commands or orders to younger individuals, but older individuals expect to be treated with respect.
- Women are sometimes less fluent in English and may not be literate in their first language, as education for males is emphasized more than education of females.
- South Asians may prefer that family members act as interpreters, and the individual is preferred to be of the same gender but older in age.
- In 2003, there were 49,415 South and Southeast Asians living in Calgary.

**Further Information:**

**All About Sikhs**

Sikhism resource site, including Sikh history, way of life, scriptures, and links to Gurudwaras in Canada.

**South Asians in Canada: Unity Through Diversity**

A research report by StatsCan, providing key definitions, history, statistics and characteristics of the South Asian community in Canada.

**10.7 Southeast Asian Community**

Communities that make up the Southeast Asian community include Vietnamese, Laotian and Cambodian.

**Cultural Customs and Values**

- **Saving Face** in Vietnamese society is extremely important (an act that avoids a loss of face – of dignity or prestige).
  - Service providers must be more sensitive in understanding the family dynamics in relation to ‘saving face’.
  - A worker/service provider must ensure neutrality when working with a couple or family from the Vietnamese community.
- In the Cambodian culture/community, aggression does not necessarily mean a person is dangerous or that there is intention to harm.

**Incongruity between Country of Origin and Canadian Values:**

- Cambodian men may consider a certain level of abuse towards women acceptable.
- Lack of understanding of Canadian norms and practices.
  - For example: in some Cambodian families, outside babysitters are rarely utilized. Family members try to work around the children’s schedule, but at times children are left alone for short periods of time. This may result in Child and Family Services interventions, in some cases.
Family Structure

Traditional Female Role:

- Subordinate role with responsibility to maintain the image of the family;
- Looking after the children;
- Household duties;
- Taking care of finances;
- In Vietnam women have fewer rights than men relating to education, political influence and employment.
- Women usually not employed outside the home in South East Asia, but many were forced to support the family when men died in the war or were involved in the military.

Traditional Male Role:

- Breadwinner, with responsibility for matters external to the family;
- The men (father or eldest son) carry the more important role in the family and society;
  - It is his responsibility to answer questions about the family and make decisions.

Type of Family:

- Identity is related to the extended family unit, and acts as a financial and emotional support network.
- There is strong loyalty to family, as it is the primary social and economic unit in traditional culture.
- Family is often extended and may include the elderly, an adult couple and their children, and spouses of married children.
- Family obligations are strong, even toward those members outside Canada which may impact a family’s ability to become established in Canada.
- There may be interference from grandparents in family matters, which can be a stressor.
  - Grandparents are understood to be good for support but can cause conflict.

Vietnamese

- Traditional gender roles within the home (“In the evenings, the men watch television while the women are in the kitchen”).
- It is considered rude when an outsider interferes in a woman’s work because they feel sorry for her.
- Family problems are private.
  - The wife may talk to family for support and will receive much support, but if she calls 911, the police, etc., she will be isolated and the family will not be sympathetic with her.
- If something is wrong with the children, the wife is usually blamed.
Cambodian

- As elders are highly respected, it is traditionally common for their children to provide care for them, especially women.
- Older men are involved in making important decisions/providing advice for family.

Children:

- Vietnamese families are very attentive to their babies who are not often allowed to cry, but instead are held by the mother or sibling.
- Vietnamese parents traditionally believe they have the right to beat a child without intervention, but it rarely occurs.

Elderly:

- Elders are respected and privileged.

Marriage and Divorce Attitudes/Customs/Practices

Cambodian

- Dating is rare; often couples will meet in the form of group activities.
- Concern regarding prospective husband’s character, family background and social status.
- Divorce is thought to bring shame and is therefore avoided. Couples (especially women) are encouraged to keep the marriage together. Often the couple would rather stay/survive together (through the pain), rather than divorce, as they have made a commitment.
- Cambodian women “must ask their husbands for everything”.
- Many women are unaware of the resources available to them in Calgary.

Marriage:

- Men may go to Cambodia to find a wife from their culture because of the cultural demands placed upon them to do so.
- Young women may come to Canada through a sponsorship agreement, with little or no ability to speak English and are expected to be dependent upon their husbands.

Incongruity between Country of Origin and Canadian Values:

- Women are encouraged to be dependent on their husbands.
Vietnamese

- Marriages are generally arranged by both sets of parents.
- Husbands and wives do not expect to have a close nurturing marriage.
- Husbands and wives tend to socialize separately and the wife may avoid confronting her husband regarding drinking or extramarital affairs. The marriage itself is not usually threatened.
- When a male marries, he either moves out, or his wife moves in with his family.
- The couple never moves in with wife’s family.
- Marrying someone from a different ethnic or religious background is acceptable.
- Marriage is very important.
  - Both families wish to be respected.
- Older generation does not want to see family broken down.

Religious/Spiritual Beliefs and Practices

- Buddhism, Catholicism, and Taoism are the predominant religions in Vietnam.
- Buddhism is the most predominant religious practice in Cambodia but some have converted to Christianity.
- Buddhists and Catholics provide classes on how to respect the family prior to marriage.
- Host several celebrations during the year with Cambodian New Year (Apr. 12-13) being a major event.
- Buddhist monks are highly respected, supported by the community, and are not to be within close distance of females or to touch them.

Immigration and Settlement

Vietnamese

- Upon immigration, the husband may feel a huge sense of loss and this may cause family functioning problems, as the wife may lose some of her respect for him during this time.
- Parents often feel they do not have support from their children, as they did in Vietnam.
- The wife also has many new responsibilities placed upon her, such as working outside the home.
- The wife is not required to work. This results in pressure if the husband is not successful in Canada.
  - If she is supportive, things are much easier at home.
  - Supporting the family is the husband’s source of respect in the family.

Language Barriers:

- Many do not speak English upon immigration.
- Most Cambodian immigrants struggle with/do not know English, but many know French; some know Chinese.
- Poses a barrier to securing employment.
- Poses a barrier to parents helping children with homework.
• Communication barriers around basic understandings of Canadian practices, norms and values.

Employment Related Issues:

• There are many daily stresses related to basic needs of the Cambodian community in Calgary:
  o Shelter, food, and school – these take priority over other issues.
• Many immigrants struggle for the first year after arrival in Canada/Calgary and take on one or two jobs.
• Employment/underemployment issues abound:
  o Many immigrants are highly skilled workers or professionals, but credentials are not recognized as equivalent in Canada;
  o Lack of “Canadian” experience;
  o Much frustration and stress related to employment;
  o Many immigrants have promised to support themselves in Canada and may have promised or been expected to support their family in their country of origin;
  o Expectations may be unrealistic, resulting in added frustration and stress.
  o Many Cambodian families struggle with settlement issues as they may have had only two years or less of formal education.
• Use of temporary employment visas is increasing: Families in Canada under these conditions are reluctant to use or are simply unaware of the resources that could be utilized to help resolve domestic violence issues.

Cambodian Refugee Experience/Strife: War and Displacement:

• Civil war in Cambodia resulted in 3 million killed and many being traumatized.
• Brought fear of authority and political persecution.
• Many people continue to experience war trauma and have health issues as a result.
• Many of those in Canada have refugee experience: they have been traumatized and often need more time to cope and adjust to Canadian society and its rules.
• May have prior domestic violence experience from their country of origin.

Domestic Violence in the Community

• If a Vietnamese woman goes to a shelter, the separation may only be temporary, as she does not wish to break up the family.
• There is a fear of authorities. The Vietnamese believe authorities may cause more damage than help.
• In Vietnamese culture, violence by the husband towards his wife is unacceptable and is considered abuse.
  o Violence can be used towards children only for discipline and if it is accompanied by a lesson (educational).
Impacts on Disclosure of Domestic Violence:

- Assurance of confidentiality of information is critical.
- Very concerned for the rest of the ‘community’ to find out.
- It is critical for workers to understand and work with both partners.
- Awareness of Cambodian women’s dependency upon husbands is critical to problem solving and strategy.

Barriers Encountered:

- Fear that the community will find out.
- Culturally-based dependency of women on men (wives on husbands) for provision of all needs.
- Dichotomy: Cambodians desire/need services in their first language (Khmer) while not wanting anyone in the community to find out about the domestic violence that may be occurring.

Cross-cultural communication tips:

**Vietnamese**

- Prefer formal relationships; Use the title and first name (e.g. Mrs. May).
- Avoid joking and pointing a finger, which may be disrespectful.
- The importance of politeness may hide an individual’s disagreement or misunderstanding.
- Prefer glances in contrast to continual direct eye contact.
- While gentle touch is acceptable, the head is believed to be sacred and should not be touched on a child or adult unless explained. It may be less appropriate to use touch with the elderly.
- Feet are considered profane and should not be pointed directly towards another person.

**Cambodian**

- It is very disrespectful to touch the head or shoulder of another person in casual contact, especially if he or she is older. The head is believed to house the soul. It is best to minimize direct eye contact, thus showing a sign of respect.
- It’s impolite to disagree; he/she may verbally agree but not follow through. Use soft tone of voice.
- About 900 immigrants from Cambodia reside in Calgary as of 2003.
Further Information:

Southeast Asian Immigration to Alberta

A module in the *Understanding Canadian Diversity in Canada* series published by the Heritage Community Foundation:
http://www.edukits.ca/multiculturalism/student/immigration_south_east_asia_e.html

Vietnamese Canadian Federation

Profile of the Vietnamese community in Canada. Information regarding events, classes and news in Calgary can be found under the “Archives” link.
http://www.vietfederation.ca/

Statistics Canada: The Vietnamese Community in Canada


Cambodians/Khmer

A cultural profile that is part of the Multicultural Canada Project:
http://multiculturalcanada.ca/ecp/content/cambodians_khmer.html
11.0 Appendices
11.1 FAMILY LAW ACT – PROCEDURAL FLOW-CHART

FAMILY LAW ACT PROCEDURE

Applicant attends PAS (if applicable)

Applicant files a Claim & Statement(s)

At least 10 business days before the court date, the Respondent is served with the Claim, Statement(s), Blank Response, and Blank Reply Statement(s).

RESPONDENT CHOOSES TO RESPOND

Respondent attends PAS (if applicable)

Respondent files Response & Reply Statement(s)

NO ADDITIONAL APPLICATION

At least 5 business days before court date Applicant is served with Response and Reply Statement(s).

RESPONSE INCLUDES ADDITIONAL APPLICATION(s)

If Respondent requests additional relief in the Response the Respondent also files Statement(s).

At least 5 business days before court date Applicant is served with Response, Reply Statement(s), Statement(s), and Blank Reply Statement(s).

Respondent files Reply Statement(s) for each application the Respondent wishes to respond to.

At least 24 hours before court date Respondent is served with Reply Statement(s).

Court may proceed in any way it sees fit which may include:
- Deciding all or part of the matter;
- Adjourning to a later date;
- Setting for hearing or trial;
- Granting interim or procedural order.

If matter not resolved in Chambers/Docket or by consent, it may be set down for a short oral hearing or trial.

Court Date

Court Date

Court Date

Court Date

Court Date

Court Date

The Respondent’s absence, granting any order it could have if the Respondent were in attendance.

HEARING OR TRIAL

11.2 GLOSSARY

**Acquit:** To find not guilty.

**Action:** A lawsuit or an application made in the courts. You may take legal action to enforce your rights or to correct a wrong done to you by another person. When an action is started, the court assigns it an action number. This number is then used in all of the documents related to the action filed with the court.

**Affidavit:** A written statement of facts that a person swears or affirms are true in front of a commissioner for oaths. The facts in the statement will be used as evidence in court.

**Appeal:** A request that a higher court review a decision.

**Appearance Notice:** A legal document given to the accused by the police indicating what criminal offence with which the accused is charged, and the court date the accused must appear.

**Application:** Asking the court to make an order. You can make several applications in the course of a court action.

**Assess:** To figure out a sum of money and charge it to another.

**Bail:** Money or other security provided by the defendant, or by another person on their behalf, to assure that they will appear at the required stages of the trial process.

**Brief:** A written summary of a client's case, usually summarizing relevant laws and facts.

**Civil Law:** A term for private law governing the relationship between individuals.

**Compensate:** To give one party money or other benefits to make up for a loss or problem.

**Contempt of the Court:** Committed by a person who intentionally disobeys a court order, acts in a way that does not respect the authority and dignity of the court, or who fails to follow a court order.

**Damages:** An award of money to the winning party in a lawsuit. Actual damages are out-of-pocket expenses such as lost wages or hospital bills. Actual damages in some cases might include an award for psychological harm. Punitive damages are an award to punish the wrongful party for wilful improper action.

**Duty Counsel:** Lawyers that are hired by Legal Aid who help people understand the court process and who give free legal advice to people representing themselves at their first court appearance. Duty counsel is found at the courthouse and most often speak to clients before their court appearance. They do not become involved in trials.

**Ex parte:** On one side only (ex: a judicial decision is “ex parte” when it is taken or granted for the benefit of one party only, and without notice to any other person unfavourably affected).
Examination: The questioning of a witness by a lawyer at a trial or declaration. When the lawyer calls a witness for their case and questions the witness, the questioning is called direct examination. When the opposing lawyer questions the same witness, the questioning is called cross-examination.

Guardian: A guardian is the person who is responsible for the care, maintenance, and well-being of the child. Typically, a child’s guardian(s) are the mother and/or the father. However, any other individual may be appointed a child’s guardian by way of a Court order or agreement.

Hybrid or Dual Procedure Offence: Offences that are punishable by summary conviction or by indictment.

Injunction: A court order prohibiting someone from doing some specified act or commanding someone to undo some wrong or injury.

Intent: The true purpose of a person’s actions. The state of a person’s mind who knows the desires and the consequences of his or her actions.

Intervention: Intervention encompasses the types of services that will, or could be, provided to a child whose survival, security, and development are not being adequately protected by his/her guardian.

Joint Custody: In family law, the care and control of a child awarded by the court to both parents.

Judicial Interim Release: Bail.

Jurisdiction: Authority of a court to listen to and decide cases. Each court has the authority to hear certain cases. Provincial and federal laws determine which matters courts may decide and whether the court’s decision will be binding on someone who lives in another province.

Liable: Legal responsibility.

Litigation: A lawsuit. The action of bringing a civil disagreement to court for resolution.

Negligence: Carelessness or lack of care. A person is negligent if he or she fails to act reasonably or take reasonable precautions.

Notice of Motion: A court form that is filed by the applicant. It tells the court and the respondent the date, time and place of the upcoming application, and everything the applicant will be asking the court for.

Notice to Disclose: A document that asks a person to provide financial information.

Oath: A written or oral statement by a person to keep a promise or speak the truth. This is usually done in front of a judge before a trial begins.

Pre-Sentence Report: A report prepared by a probation officer at the request of the judge or on the suggestion of either lawyer. The report assists the judge to decide on the most appropriate sentence for the offender.
**Private Information:** A sworn statement that states that an individual has reasonable and probable grounds to believe an offence has been committed.

**Recognizance:** A legal document that the accused must sign, in which he or she acknowledges the charge laid and promises to appear at a specified court date.

**Sanction:** To approve or give permission for an action. It can also mean a punishment or penalty for breaking a law or rule.

**Subpoena:** A document from the court ordering someone to appear in court to testify.

**Summary Conviction Offence:** The least serious crimes are found in this category.

**Summons:** A document that orders an accused to appear in court for a criminal charge and report for fingerprinting on required dates and times. A summons is the most common way a person is notified that he/she has been charged and that he/she must go to court.

**Testimony:** A declaration (e.g. by a witness) under oath. A sworn statement.

**Trespass:** To enter or cross another person’s property without consent or legal right.

**Trustee:** A person appointed under a will to carry out a trust, or a person appointed to manage the financial affairs of a dependent adult.

**Victim Impact Statement:** A written statement that the victim can prepare after the accused has been found guilty. The statement describes how the crime has affected them and any reactions to the planned sentence or punishment of the accused.

**Warrant Permitting Entry:** Police can apply for a warrant permitting entry when they have been refused access to a family member who has been the victim of family violence. The police must believe the family member will be at the place to be searched. Normally, the police officer can apply for this warrant by telephone. The warrant allows police to enter the home to search for, assist, or examine family members and remove them from the home with their consent.

### 11.3 EXAMPLE SAFETY PLAN***


**SAFETY PLANNING FOR VICTIMS OF DOMESTIC VIOLENCE**

Evidence has shown that the danger of violence, including the risk of death, escalates when the victim attempts to leave the abusive partner. If you are planning to leave or taking steps to separate, it is critical to develop a safety plan. A safety plan does not guarantee safety but rather it can increase your safety and the safety of your children. Safety plans must be developed to take into account specific circumstances and abilities
of each individual. Call a shelter outreach worker / crisis line for help creating a safety plan that is best for you. A shelter can help you access resources to leave safely, and can help you get free transportation to the shelter if necessary.

If you are leaving an abusive situation…

- Plan ahead whenever possible, but the abuser must not know that you are considering leaving as this may increase the risk of further violence. Leave when the abuser is gone, or create an excuse to leave the house or situation.
- Plan an escape route out of your home. Teach it and practice it with your children.
- If possible keep an extra key to a vehicle hidden.
- Work out a code word that can be used on the phone with a person that is trusted. The code could mean to contact police or to inform them that you are leaving. It may also be important to develop signals or codes for neighbours to call police.
- Only tell a few people about your safety plan details, and be sure they are people you can trust not to tell other people.
- Make a list of shelters and all important contact phone numbers for you and your children and keep it in a safe place:
  - If possible, pre-program phones with the emergency number (e.g. 911) for quick access
  - Have a cordless phone in a room you can lock from the inside. Whenever calling a shelter or other resources, phone another number randomly or press several other numbers on the phone immediately after, so that the abuser cannot press the redial button and find out to whom you were speaking.
  - If you are using the internet as a resource, always delete website history – do not leave a trail for the abuser to follow!
- Gather money together at every opportunity – starting with change for phone calls and putting aside every dollar that you can. Keep enough money on hand for cab fare and phone calls in emergencies.
- Gather together all important papers for you and your children. Put them in a safe place, preferably outside of your home, such as a safety deposit box or at a trusted friend’s home. Papers must include:
  - Photo Id’s (driver’s license, passport)
  - Birth certificates
  - Social insurance numbers
  - Citizenship and/or immigration papers
  - Alberta Health Care and Immunization records
  - Banking information, last banking statement
  - School and health records
  - Car registration
  - Address book
  - Credit cards
  - Insurance papers
  - Mortgage information and house deed
  - Lease/rental agreement
  - Picture of the abuser (to identify him/her to others who can help you)
  - Legal documents (separation agreement, divorce papers, court orders)

*Also include keys (house, car, office, mail box, safety deposit box). DUPLICATES MAY BE MADE TO KEEP WITH OTHER SAFE ITEMS. Include your cell phone charger, pictures, jewellery and personal items of sentimental value.*
• Open a new bank account for yourself and have mail sent to a friend’s home or a postal box.
  Get a cell phone that has the caller ID blocked and keep it charged.
• Prepare a suitcase of clothing and any medications that you and your family require. Leave
  it at a neighbour’s or friend’s house. Include:
  o Personal hygiene products
  o Glasses/contact lenses
  o Photo albums
  o Hobby work
  o Children’s items – soothers/bottles, diapers, special blanket and/or toy
• Look at options for safe places. If you can do so safely, contact the person in advance to let
  them know you are coming. This allows for them to watch for you and call for help if needed.
  Do not go to a friend or relative’s house if your partner is likely to try to find you there. Plan
  to go to a shelter or friend’s home that the abuser will not know about. It is important to keep
  your friends and family safe and your location secure.
• **Remember, if you are unable to take anything when you leave, your personal safety is
  always more important! You can return to your home with a police escort at another time to
  retrieve items you have left behind.
• Review your safety plan monthly.

In an Emergency

• Stay away from places with only one exit, or where weapons are kept, such as kitchens,
  bathrooms or closets. Plan the best way to get out on each floor.
• Call 911. Get the dispatcher’s name. Get a police officer’s name and badge number when
  they respond.
• Get medical help if you are hurt. Take pictures of bruises or injuries if possible. Keep any
  medical records.

Increasing Safety at Work

• Inform your boss, co-workers and others in your workplace of your situation.
• Ask people at work to screen your phone calls.
• When leaving work, ask a security guard or someone who can ensure your safety to walk
  you to your car, bus or train station.
• If you are working with the abuser, explain you situation to your boss. Your boss can move
  you or the abuser to a new position or a different building to increase your safety. Make sure
  your boss has a copy of any court orders.

Keeping Children Safe

• Make sure children know their full names, address and phone number.
• Teach them how to call 911 – stress that they use a phone out of sight of the abuser, for
  example at the home of a neighbour. Teach them to use cell phones or pay phones (collect
  calls may be made to people that are considered safe contacts). Practice what they are to
  say when making emergency calls.
• Help children pick a safe place in the house, away from the abuser, preferably with a door
  that locks from the inside and with a telephone.
• Talk everything over when things are calm. Stress that abuse is never okay and that it is not
  your fault or their fault. Tell them it is important they save themselves and not someone else
  being abused!!
• Practice your escape route out of the home with the children.
• Plan a safe place to meet your children outside the home and the safest way to get there, after the situation is safe for both you and them.
• Decide on a code word for the children and any caregivers to:
  a) identify someone that is safe to go with;
  b) when it is important to call the police (911) or a trusted contact person;
  c) to quickly get out of the house or area of abuse.
• Notify schools and caregivers as to what the abuser looks like so that everyone can work together to keep the children safe.
• Always take the children with you when escaping.

Using the Law to Help You

• Protection and restraining orders are available. Ask your local domestic violence program that can help you get a civil protection order. Ask for help finding a lawyer.
• Inform people such as your boss, religious leaders, close friends, counsellors or family of any court orders and their conditions.
• Save any voicemails or emails from the abuser for evidence. You can show the judge any pictures of your injuries. Keep a journal of any other evidence, including people you have informed of your situation.
• Get a certified copy of the court order. Register orders with the police, and keep copies with you at all times.
• In most cases, a judge can:
  - Order the abuser to stay away from you and your children and not to call you
  - Order the abuser to leave your home
  - Give you temporary custody of the children
  - Order police to be with you when the abuser is picking up their personal belongings
  - Order the abuser to give any weapons to the police
• You can tell the judge you do not feel safe if the abuser picks up children for visitation at your home. The judge can order children to be picked up at and returned to the police station or another safe location.
• You can tell the judge if the abuser has threatened or harmed the children, and ask that someone you trust supervise visits.

Court / Criminal Proceedings

• Learn about resources that are available to you in your community.
• Show the prosecutor your court orders, and any medical records or pictures of your injuries.
• Let the prosecutor know the name of anyone helping you (a victim advocate or a lawyer), and any witnesses to injuries or abuse.
• Ask the prosecutor to notify you ahead of time if the abuser is getting out of jail.
• When in the court room, sit as far away as possible from the abuser, his/her family or friends. You do not need to look or talk to them.
• You can bring a friend or relative to court for support, to be with you before and during the court hearing. Court support workers are also available.
• You can ask a sheriff for protection if you are afraid of the abuser. You can also ask the judge or sheriff to keep the abuser at the courthouse for some time after a proceeding, so you can leave safely.
Safety for Those with Special Needs

Please also refer to above information when leaving an abusive situation. The following are additional suggestions for those individuals in abusive situations with special needs.

- Ensure arrangements for transportation are made when an abuser is not present, if you are unable to leave the home due to a disability.
- Try to arrange for someone to translate or help you in the language you feel most comfortable speaking if you are uncomfortable speaking English.
- Make arrangements for animals left with the abuser. Contact an animal shelter, as many have a pet safe-keeping program.

If you have left the abusive relationship

- Call the police immediately if the abusive person tries to contact you. Keep a journal that documents any efforts the abuser has made to contact you, and any contacts you have had with the police, including police officer’s names and badge numbers.
- Keep a copy of all protection orders and custody orders with you at all times.
- Develop an escape plan and practice it with your children.
- Replace locks on doors, add deadbolts, and place bars on windows, if possible install motion sensor lights or install a security system. Ensure all entrances are well lit and keep doors and windows securely locked.
- Change your telephone number and make sure it is unpublished. Get features such as call display and call blocking installed on your phone. Obtain a cell phone and keep it close by. Pre-program emergency numbers into your phone’s directory.
- Consider renting a postal box for your mail – addresses may be listed on legal orders and police reports that can be accessed by your abusive partner.
- Develop signals or codes for neighbours and friends to call the police.
- Have a safety plan for your children. Teach your children not to let the abusive person in the home. Prepare the children to respond to the abusive person who comes to their school or daycare centre. If a protection order includes provisions about the children, inform the school or daycare centre and give them a copy of the order.
- Choose a safe place to go. Stay away from places where you would expect the abuser to be.
- Change any appointments the abusive person may be aware of.
- Change banks, shop at different grocery stores, and other services where you may run into the abuser or the abuser may track you down. Go at different times than usual. This may mean changing doctors, dentists and other professional services. Frequent different social spots so that the abuser is less likely to find you.
- Change customary travel habits and routes.
- Ensure your name is not in an apartment directory or a mailbox.
- If you move to another town or district, notify and provide a copy of any court orders to the local police.
- Review your safety plan monthly.
If you choose to stay in an abusive relationship, there are some steps that can be taken to increase your safety if an abusive incident occurs. Even if all these precautions are followed, your safety cannot be guaranteed. **Remember you do not deserve to be hurt or threatened.**

- If an abusive situation seems likely, avoid rooms with access to potential weapons (i.e. knives, heavy objects), and with only one exit. Avoid the kitchen and bathrooms areas.
- Do not run to where your children are as they may be hurt as well.
- If possible, pre-program emergency numbers into your phone (i.e. 911). Keep a phone in a room you can lock from the inside.
- Talk to your neighbour or friends that you can trust and arrange a signal or code for when you need them to get help, such as banging on the floor or wall in case of an emergency.
- Teach your children not to intervene in the violence. Instead, teach them a code for when you need them to get help.
- Have an emergency bag packed and hidden in an accessible location. Include numbers of emergency shelters and police; identification; few items of clothing and; money for phone calls and/or transportation. Have an extra set of car keys or enough money for a taxi or bus. Keep important papers for you and your children including, Alberta Health Care cards, birth certificates, custody agreements, social insurance numbers, and citizenship and immigration papers.
- Ensure that some form of emergency transportation is available upon request. This may be through a trusted friend or community supports.
- Have an escape route out of your home. Teach and practice it with your children.
- Work out a code word to use on the phone with a trusted person. The code could mean to contact the police or to inform them that you are leaving.
- Look at options for safe places (i.e. a friend, a neighbour, a relative, motel or emergency shelter). If you can do so safely, contact the people in advance to let them know you are coming. This allows them to watch for you and call for help if needed. Do **not** go to a friend or relative’s house if the abuser is likely to try to find you there. This can be dangerous for both you and those trying to assist you.
- A life-call system can be a part of a personalized safety plan. The shelters have more information on this system.
- Whenever calling a shelter or other resources, phone another number or press several numbers randomly immediately afterwards, so that the abuser cannot press the redial button and find out whom you were speaking with.
- Children should be told that violence is not right, even if the abusive person is someone they love. Tell your children that the targets of violence are not at fault. Neither you nor they caused the violence. The most important thing is for you and your children to be protected.

Review your safety plan monthly. The abused person may wonder whether to tell the abuser they are leaving. In cases where there has been physical abuse or extremely controlling behaviour, telling the abuser can seriously endanger the abused. Abusers can become increasingly violent when they fear their partner is leaving or they are losing their control over them.

***FOR SAFETY PLANS IN ALTERNATIVE LANGUAGES, REFER TO THE END OF THIS DOCUMENT.***
### 11.4 CALGARY DOMESTIC VIOLENCE COMMUNITY RESOURCES

An important part of feeling prepared and being able to work effectively with a victim of domestic violence is being aware of resources that are available in the community.

#### EMERGENCY

<table>
<thead>
<tr>
<th>Service</th>
<th>Crisis</th>
<th>(TTY)</th>
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<tbody>
<tr>
<td>Calgary Police Services</td>
<td>911</td>
<td>233-2210</td>
</tr>
<tr>
<td>Child Abuse</td>
<td>(403) 206-8390</td>
<td></td>
</tr>
<tr>
<td>Child At Risk Response Team (CARRT)</td>
<td>(403) 206-8699</td>
<td></td>
</tr>
<tr>
<td>Domestic Conflict Unit (Calgary Police Service)</td>
<td>(403) 206-8339</td>
<td></td>
</tr>
<tr>
<td>Requests for Police Service</td>
<td>266-1234 (24 hrs)</td>
<td>265-7392 (TTY) (24 hrs)</td>
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</table>

#### ABORIGINAL SERVICES

<table>
<thead>
<tr>
<th>Service</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal Resource Centre</td>
<td>204-0083</td>
</tr>
<tr>
<td>Child Welfare (Calgary &amp; Area Child and Family Services)</td>
<td>297-4376</td>
</tr>
<tr>
<td>Eagle Women’s Emergency Shelter</td>
<td>531-1972 (24 hrs)</td>
</tr>
<tr>
<td>Native Addiction Services</td>
<td>261-7921</td>
</tr>
<tr>
<td>Native Counselling Services</td>
<td>237-7850</td>
</tr>
</tbody>
</table>

#### CRISIS SHELTERS

<table>
<thead>
<tr>
<th>Service</th>
<th>Crisis</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Awo Taan (Calgary)</td>
<td>531-1972; 531-1976</td>
<td></td>
</tr>
<tr>
<td>Brooks &amp; District Women's Safe Shelter Society</td>
<td>793-2232</td>
<td></td>
</tr>
<tr>
<td>Calgary Women’s Emergency Shelter (accessible)</td>
<td>234-7233 (24 hrs)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>262-2768 (TTY)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>290-1552</td>
<td></td>
</tr>
<tr>
<td>Eagle Women’s Emergency Shelter (Black Diamond)</td>
<td>933-3370</td>
<td></td>
</tr>
<tr>
<td>(Now known as Rowan House Emergency Shelter)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kerby Rotary House (Seniors’ Shelter) (accessible)</td>
<td>705-3250 (24 hrs)</td>
<td></td>
</tr>
<tr>
<td>Wheatland Communities Crisis Shelter (Strathmore)</td>
<td>934-6634</td>
<td></td>
</tr>
</tbody>
</table>
Second Stage Shelters

Brenda Strafford Centre (403) 270-7240
Discovery House Office: (403) 670-0467
Sonshine Centre (403) 243-2002

If a shelter is full and the abused woman has no place to stay, the shelter worker may be able to obtain assistance to pay for accommodation at a hotel and basic living expenses. There are community crisis workers to assist women who are unable to access a shelter.

CHILDREN’S SERVICES

Alberta Mental Health, Adolescent and Child Services (403) 297-4520
Calgary Communities Against Sexual Abuse (CCASA) Office: (403) 237-6905 Crisis: (403) 237-5888 (24 hrs) 508-7888 (TTY)
Calgary Counselling Centre Children’s Program (403) 265-4980
Calgary & Area Child and Family Services (Child Welfare) Response Team (After Hours) (403) 297-2995 (24 hrs)
Calgary Women’s Emergency Shelter Office: (403) 290-1552 Crisis: (403) 234-7233 (24 hrs)
Child Abuse Hotline 1-800-387-5437 (24 hrs)
Child Abuse Program, Alberta Children’s Hospital (403) 943-7886 (403) 943-7070
Child At Risk Response Team (CARRT) (Calgary Police Service) Office: (403) 206-8699
Child Witness Court Preparation Program (403) 289-8385
Children’s Advocate (403) 297-8435 Toll Free: 1-800-661-3446
Children’s Legal and Educational Resource Centre (CLERC) (403) 207-9029
Children’s Cottage Office: (403) 283-4200 (24 hour crisis nursery) Crisis: (403) 233-2273 (24 hrs)
Community Resource Team (Wood’s Home) (403) 299-9699 (24 hrs)

Discovery House Office: (403) 670-0467

Distress Centre (Teen Line) (403) 264-TEEN (8336)
(voice/TTY)

Non-Abusive Futures for Adolescents at Risk (403) 299-9633

Y.W.C.A. Family Violence Prevention Centre and Sheriff King Home (accessible) Crisis: (403) 266-0707 (24 hrs)

COUNSELLING SERVICES

Alberta Alcohol and Drug Abuse Commission (403) 297-3071

Calgary Community Against Sexual Assault (CCASA) Office: (403) 237-6905
Crisis: (403) 237-5888 (24 hrs)
(403) 508-7888 (TTY Service 8:00 AM to 5:00 PM weekdays)

Calgary Counselling Centre (403) 265-4980

Calgary Family Services (403) 269-9888

Calgary Catholic Family Services (403) 233-2360

Distress Centre/Drug Centre (403) 266-1605 (24 hrs)
(403) 543-1967 (TTY)

Eastside Family Centre (403) 299-9696

Families Matter (Resource Line) (403) 205-5178

Family Mediation Services (403) 297-6981

Family Violence Information Line (Government Of Alberta) (403) 310-1818

HomeFront (403) 206-2100

Jewish Family Services (403) 287-3510

North of McKnight Family Resource Centre (403) 293-0424

Westside Family Centre (403) 288-3313

Y.W.C.A. Family Violence Prevention Centre and Sheriff King Home (403) 266-4111
Crisis: (403) 266-0707 (24 hrs)

Sunrise Community Link Resource Centre (403) 204-8280
### COURT SERVICES

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court of Queen’s Bench Clerk’s Office</td>
<td>(403) 297-7538</td>
</tr>
<tr>
<td>Court of Queen’s Bench Criminal</td>
<td>(403) 297-2204</td>
</tr>
<tr>
<td>Court of Queen’s Bench Divorce</td>
<td>(403) 297-2200</td>
</tr>
<tr>
<td>Crown Prosecutor’s Office</td>
<td>(403) 297-8444</td>
</tr>
<tr>
<td>Provincial Courts Civil</td>
<td>(403) 297-7217</td>
</tr>
<tr>
<td>Provincial Courts Criminal</td>
<td>(403) 297-3152</td>
</tr>
<tr>
<td>Provincial Courts Family and Youth court</td>
<td>(403) 297-3470</td>
</tr>
</tbody>
</table>

### DISABILITY SUPPORT SERVICES

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canadian Mental Health Association</td>
<td>(403) 297-1700</td>
</tr>
<tr>
<td>Canadian National Institute for the Blind (CNIB)</td>
<td>(403) 266-8831</td>
</tr>
<tr>
<td></td>
<td>(TTY) 264-0105</td>
</tr>
<tr>
<td>Canadian Paraplegic Association</td>
<td>(403) 228-3001</td>
</tr>
<tr>
<td>Deaf and Hard Hearing Services</td>
<td>(403) 284-6200</td>
</tr>
<tr>
<td></td>
<td>(TTY) 284-6201</td>
</tr>
<tr>
<td>Developmental Disabilities Resource Centre</td>
<td>(403) 240-3111</td>
</tr>
<tr>
<td>Independent Living Resource Centre</td>
<td>(403) 263-6880</td>
</tr>
<tr>
<td></td>
<td>(TTY) 263-6874</td>
</tr>
</tbody>
</table>

### GAY AND LESBIAN SUPPORT SERVICES

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gay and Lesbian Community Service Association</td>
<td>(403) 234-8973</td>
</tr>
<tr>
<td>Peer Support Services for Abused Women</td>
<td>(403) 228-0293</td>
</tr>
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</table>

### IMMIGRANT-SERVING AGENCIES

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calgary Coalition on Family Violence</td>
<td>(403) 283-3013</td>
</tr>
<tr>
<td>Calgary Catholic Immigration Society</td>
<td>(403) 262-2006</td>
</tr>
<tr>
<td>Calgary Immigrant Women’s Association</td>
<td>(403) 263-4414</td>
</tr>
<tr>
<td>Citizenship and Immigration</td>
<td>1-888-242-2100</td>
</tr>
<tr>
<td>Centre for Newcomers</td>
<td>(403) 569-3325</td>
</tr>
</tbody>
</table>
Diversity Resources Unit (Calgary Police Service) (Diversity Resources/Cultural Concerns) (403) 974-0550

Immigrant Services Calgary (403) 265-1120

**LEGAL SERVICES**

Calgary Legal Guidance (403) 234-9266

Calgary Legal Guidance Court Preparation Program and Quick Restraining Order Service (403) 716-6484

Dial-A-Law Audio Library (403) 234-9022

Family Law Information Centres (Calgary office) (403) 297-6602

Family Justice Services (Mediation and Family Court Counselling Services) (403) 297-6981

Lawyer Referral Service (403) 228-1722

Legal Aid Society of Alberta (403) 297-2260

Maintenance Enforcement Program (Edmonton) (780) 422-5555

Office of the Public Guardian (403) 297-3364

Office of the Public Trustee (403) 297-6541

Partner Support Program, Community Corrections (403) 297-3250

*Protection for Persons in Care Act* Reporting Line 1-888-357-9339

Student Legal Services (University of Calgary) (Legal assistance available to students and to the low-income public) (403) 220-6637

**SENIORS’ SERVICES**

Alberta Seniors Information Line 1-800-642-3853 (TTY) 1-800-232-7215

Kerby Centre (403) 705-3250 (24 hrs)

Seniors Help Line (403) 264-7700 (24 hrs)

Calgary Women’s Emergency Shelter (24-Hour Crisis Line for women 50+) (403) 253-2912
### SERVICES FOR MEN

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calgary Counselling Centre</td>
<td>(403) 265-4980</td>
</tr>
<tr>
<td>Forensic Assessment – Outpatient Services, Peter Lougheed Hospital</td>
<td>(403) 291-8596</td>
</tr>
<tr>
<td>Men’s Crisis Service</td>
<td>(403) 299-9680</td>
</tr>
<tr>
<td>Men’s Line (voice/TTY)</td>
<td>(403) 266-HELP(4357)</td>
</tr>
<tr>
<td>Sunrise Native Addiction Services</td>
<td>(403) 261-7921 (24 hrs)</td>
</tr>
<tr>
<td>Y.W.C.A. Family Violence Prevention Centre and Sheriff King Home</td>
<td>(403) 294-3678</td>
</tr>
</tbody>
</table>

### VICTIM ASSISTANCE

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victim Assistance Unit (Calgary Police Service)</td>
<td>(403) 206-8353</td>
</tr>
<tr>
<td>Victims of Crime – Financial Benefits Program</td>
<td>Dial 310-0000 then dial 427-7217</td>
</tr>
</tbody>
</table>

### 11.5 DOMESTIC VIOLENCE AND ETHNOCULTURAL COMMUNITY

The following is a list of resources available to the public in the Alliance to End Violence Library and Resource Centre (LARC). For further information or access to these resources, please contact the LARC Coordinator:

**Alliance to End Violence Library & Resource Centre**  
#306, 301 14th St. N.W.  
Calgary, Alberta T2N 2A1  
283-3013 ext. 229  
info@endviolence.ca

**Books:**

- **Empowerment of Immigrant and Refugee Women who are Victims of Violence in their Intimate Relationships.**  
  Call number: IM 362.8292 JUS  
  Justice Institute of B.C.  
  Published 2007

- **Immigrant Women, Family Violence, and Pathways out of Homelessness.**  
  Call number: IM 362.8292 THU  
  Thurston, Wilfreda E. et al.  
  Published 2006
Domestic Violence at the Margin: Readings on Race, Class, Gender and Culture.
Call number: IM 362.8292 SOK Sokoloff, Natalie J., Ed.
Published 2005

Family Violence in a Cultural Perspective: Defining, Understanding and Combating Abuse.
Call number: IM 362.8292 MAL Malley-Morroson, Kathleen
Published 2004

Nowhere to turn? : Responding to partner violence against immigrant and visible minority women.
Call number: IM 362.8292 SMI Smith, Ekuwa
Published 2004

Family Law Guidebook for Recent Immigrants.
Call number: JU 392.0 MCL McLeod, Kristan
Published 2003

Call number: IM 362.8292 PAC Pacey, Katrina
Published 2001

Changing the Landscape : A Training Manual for Service Providers
Call number: IM 362.8292 MEY Meyer, Mechthild; Estable, Alma.
Published 2001

Speaking the Unspeakable: Marital Violence among South Asian Immigrants in the United States.
Call number: IM 362.8292 ABR Abraham, Margaret
Published 2000

Culturally Competent Assessment for Family Violence.
Call number: HL 392.0 AME American Nurses Association
Published 1998

In Search of a Safe Place: Abused Women and Culturally Sensitive Services.
Call number: IM 362.8292 AGN Agnew, Vijay
Published 1998

“Peace of Mind”: Integration Needs of Abused Immigrant Women.
Call number: IM 362.8292 BAN Banerjee, Paramita
Published 1998
Violence against Women: Meeting the Cross Cultural Challenge
Call number: IM 362.8292 SHE
Sherlock, Lesley, editor
Published 1998

Bridging the Gap: Understanding Family Violence in New Canadian Communities: A Cross-Cultural Training Module for Service Providers
Call number: IM 362.8292 MIS
Gonzales, Soledad
Published 1996

Building Bridges: Model of Service Delivery for Abused Immigrant Women and their Families.
Call number: IM 362.8292 OLI
Oliver, Carol
Published 1996

Videos:

Call number: IM 362.8292 JAF VID
Jaffer, Fatima
Published 2003

Call number: IM 649.0 HIN VID
B.C. Institute Against Family Violence
Published 2002

The Troubling Cycle (Video in Vietnamese With English Subtitles): An Educational Video About Domestic Violence.
Call number: IM 362.8292 DUO VID
Duong, Lan Vuong
Published 1999

Behind Closed Doors: A Multicultural Documentary on Family Violence.
Call number: IM DEL VID
Deluxe Productions
Published 1998

Call number: IM 362.8292 DEL VID
Deluxe Productions
Published 1998

Breaking Barriers (VIDEO): Reaching South Asian Abused Women.
Call number: IM 362.8292 PAP VID
Papp, Aruna
Published 1994
11.6 WEBSITE RESOURCES

GENERAL DOMESTIC VIOLENCE INFORMATION

Alberta Council of Women’s Shelters
Basic Information on abuse. Contains a map of shelters across the province of Alberta: www.acws.ca/

Shelternet
Information for women, children, family and friends, on abuse, making a safety plan and a map of shelters available across Canada: www.shelternet.ca/en/index.cfm

Safe Canada
An array of publications, links and information on domestic violence available from the Government of Canada: safecanada.ca/link_e.asp?category=1&topic=3

ONLINE TRAINING COURSE

OCASI, the Ontario Council of Agencies Serving Women, has created a self-directed online course for front-line workers. The courses are free, but you have to register. The course is entitled Prevention of Domestic Violence against Immigrant and Refugee Women through Early Intervention.

The course can be accessed at: http://learn.settlementatwork.org/

LEGAL TOPICS RELATED TO DOMESTIC VIOLENCE

Alberta Solicitor General and Public Security – Publications

Calgary Legal Guidance
Provides legal information and advice on family law, criminal issues (including domestic violence), civil issues (landlord/tenant, etc.), orders of protection (restraining orders, EPOS, etc.), social benefits issues, and other legal matters. Especially useful for people who cannot afford a lawyer, but do not qualify for Legal Aid, as volunteer lawyers donate their professional time: http://www.clg.ab.ca/

Department of Justice Canada – Canada’s Court System

Department of Justice Canada – Family Violence Initiative
Department of Justice Canada – Publications
Contains guides, pamphlets, facts sheets and other publications on victims of crime, for both victims and service providers: canada.justice.gc.ca/en/ps/voc/pub.html

Family Law Information Centre
A service provided by Alberta Justice to give people information if they want to make a family law application and to help the public learn about the Child Support Guidelines and other areas of family law: http://www.albertacourts.ab.ca/familylaw/

Legal Aid Alberta
www.legalaid.ab.ca/

Legal Resource Centre of Alberta
Canadian Legal FAQ’s. There are national and Alberta specific FAQ’s: http://www.law-faqs.org/index.html

People’s Law School of British Colombia
Multilingual information brochures and booklets on various issues regarding domestic violence and legal matters: www.publiclegaled.bc.ca

Public Legal Education and Information Service of New Brunswick
Spanking and disciplining children: What you should know about Section 43 of the Criminal Code: www.legal-info-legale.nb.ca/showpub.asp?id=147&langid=1

Women’s Rights for a Safer Tomorrow
A website from Public Legal Education, Medicine Hat College, that provides a handbook on legal options for Alberta women involved in abusive relationships: http://www.mhc.ab.ca/continuing-studies/womens_rights/index.htm

MULTILINGUAL RESOURCES AND PUBLICATIONS

Alberta Solicitor General and Public Security – Publications

Centre for Addiction and Mental Health
PDF booklets in a number of languages. Booklets are not limited to addiction and mental health, but include “Asking for help when things are not right”, “Coping with Stress” and “Alone in Canada”: www.camh.net/About_Addiction_Mental_Health/Multilingual_Resources/

Department of Justice Canada – Family Violence Publications
Several publications, including “Abuse is Wrong in Any Language”. This publications is available in English, French, Chinese, Spanish, Punjabi, Hungarian, Serbian, Romanian, Albanian and Czech: www.justice.gc.ca/en/ps/fm/publi.html#plei

MultiLingoLegal.ca – British Colombia’s Online Access to Multilingual Legal Publications
A variety of publications on legal aspects of domestic violence, immigration, etc., available in various languages including Arabic, Chinese, Korean, Punjabi, Spanish and Vietnamese: www.multilingolegal.ca/?fetchlanguage=1&fetchsubject=26
ETHNOCULTURAL COMMUNITY INFORMATION

Alberta Network of Immigrant Women
A provincially-based network of immigrant women's organizations. ANIW provides a forum for member organizations to discuss relevant issues and facilitate the development of solutions for issues that face immigrant women and their families: www.aniw.org

Asian and Pacific Islander Institute on Domestic Violence
Serves as a forum for, and clearinghouse on information, research, resources and critical issues about violence against women in Asian and Pacific Islander communities. Includes Cambodian, Chinese, Filipino, Hmong & Laotian, Japanese, Vietnamese, Korean and South Asian (Bangladeshis, Nepalese, Indians, Pakistanis, Sri Lankans) communities (US website): www.apiahf.org/apidvinstitute/default.htm

Asian Task Force Against Domestic Violence

Calgary Immigrant Women’s Association
Calgary Immigrant Women's Association (CIWA) was established in 1982 as a non-profit organization to address the needs and concerns of immigrant and refugee women, youth, children and families: www.ciwa-online.com

Canadian Ethnocultural Council
Some objectives: To ensure the preservation and sharing of the cultural heritage of Canadians, the removal of barriers that prevent some Canadians from participating fully and equally in society and the elimination of racism. The website includes related publications and links, and a new “capacity building toolkit”: http://www.ethnocultural.ca/

Citizenship and Immigration Canada
Publications and links to information regarding citizenship, immigration, the refugee system, studying in Canada, and visiting or working in Canada: http://www.cic.gc.ca/english/resources/publications/index.asp

Ethno-Cultural Council of Calgary
Information on issues faced by visible minority communities: www.ecccalgary.com

Hot Peach Pages
International list of domestic violence and abuse agencies: http://www.hotpeachpages.net/

Settlement.Org
Link is specific to Immigrant Women and Domestic Violence. Includes information about abuse and immigration status: http://www.settlement.org/sys/faqs_detail.asp?faq_id=4000620

The Women’s Centre
The Women's Centre has provided services, support and community to women in Calgary for more than 30 years. With its philosophies of peer support, drop-in services, and programming defined by client need, the Women's Centre is rooted in the realities and dreams of Calgary women: http://members.shaw.ca/womens-centre/index.html