

<b>Policy Title</b>	<b>Policy Number</b>	<b>Effective Date</b>	<b>Page</b>
<b>Victim Services Family Violence Protocol</b>	<b>VS-03-01-03 J&amp;PS-03-02</b>	<b>Updated May 2014</b>	<b>Cover</b>

# **Victim Services Family Violence Protocol**

## **Department of Environment, Labour and Justice**

<b>Policy Title</b>	<b>Policy Number</b>	<b>Effective Date</b>	<b>Page</b>
<b>Victim Services Family Violence Protocol</b>	<b>VS-03-01-03 J&amp;PS-03-02</b>	<b>Updated May 2014</b>	<b>Table of Contents</b>

1.0 Introduction & Intake. . . . . 1

2.0 Information, Emotional Support and Referral. . . . . 1

3.0 Assistance Under the *Victims of Family Violence Act*. . . . . 2

    3.1 Emergency Protection Orders. . . . . 3

    3.2 Procedures for Applying for an Emergency Protection Order. . . . . 3

    3.3 Rehearings and Reviews of Emergency Protection Orders. . . . . 4

    3.4 Victim Assistance Orders. . . . . 4

4.0 Victim Impact Statements. . . . . 5

5.0 Assistance Through the Court Process . . . . . 6

6.0 Follow Up/Liaison with other Criminal Justice Personnel. . . . . 7

7.0 Criminal Injuries Compensation . . . . . 7

Policy Title	Policy Number	Effective Date	Page
Victim Services Family Violence Protocol	VS-03-01-03 J&PS-03-02	Updated May 2014	1 of 8

## 1.0 Introduction & Intake

Victim Services is a province-wide, criminal justice system based program operated by the Prince Edward Island Department of Environment, Labour and Justice. Victim Services Workers are professionals with backgrounds in social work and the criminal justice system. No fees are charged for this confidential service.

Victim Services workers assist many victims of various types of crime. The following guidelines specifically address services to victims of family violence:

- 1.1 Upon receiving a referral from police, self referral, or any other source, the Victim Services worker will try to determine the safest method of contacting the victim, particularly if the person is still living with the abuser. A letter to their shared address may put the victim at further risk. Initial contact should be made by telephone, if possible, and immediately after making introductions, the worker should check whether this is a good time to talk. If not, the worker should leave a telephone number and tell the victim that Victim Services is listed in the telephone book and advise the victim how to find the number and what the office hours are for Victim Services.
- 1.2 Provided that the victim is free to talk, the worker will explain the assistance available through Victim Services and ask if the victim wishes to schedule an appointment. If the person seems hesitant, the worker will ask whether written information could be sent in case the victim wishes assistance in the future (caution will be used if the victim and abuser still live together).
- 1.3 Appointments will be scheduled at the earliest possible date. Interviewing may take place in the Victim Services office in Charlottetown or Summerside or in a location more convenient for the victim, particularly if the person lives in a rural area. If the Victim is not living with the abuser and it is difficult for him/her to leave the home because of child care responsibilities or other reasons (e.g., lack of transportation), and taking into consideration any safety concerns, the worker may go to the home upon request.

## 2.0 Information, Emotional Support and Referral

- 2.1 During the initial interview, the worker will again explain the services available through Victim Services, and will then ask the client about the history of the relationship with the abuser. This will help the worker to understand the current stage of the victim (e.g., denial, blaming self, ambivalence, preparing to end the relationship, etc.), provide the context for the client's present situation, and assess the level of violence and risk. The worker will discuss the cycle of violence and give the client appropriate written

Policy Title	Policy Number	Effective Date	Page
Victim Services Family Violence Protocol	VS-03-01-03 J&PS-03-02	Updated May 2014	2 of 8

information (e.g., "Cycle of Violence," "Transition: Leaving an Abusive Relationship," and/or "Understanding Wife Abuse"), The worker will listen and help the client assess options, but will not tell the person what to do. The worker will help the client to make his/her own decisions and choices, and will assist with risk assessment and safety planning.

2.2 Depending on the client's needs, the worker may provide the following types of assistance during the initial and following interviews:

- Information about the criminal justice process and possible legal options, including assault charges, recognizance orders (peace bonds) under Sec. 810 CCC, restraining orders under the *Family Law Act*, and Emergency Protection Orders and Victim Assistance Orders under the *Victims of Family Violence Act*.
- Assistance with obtaining copies of recognizance orders and undertakings. The worker will advise the client to keep a copy of any such orders with him/her at all times.
- Liaison with police regarding the investigation of the case, determining whether charges are pending or have been laid, means of protection from further assaults and/or threats. This assistance may include arranging and/or attending police interviews with the victim and advocating on his/her behalf as requested.
- Written information about family law and referrals to Community Legal Information Association, Legal Aid, Lawyer Referral Service, and/or Family Court Counsellors.
- Short-term counselling and emotional support; referral to counselling agencies (e.g., community mental health or family services agencies); and referrals to outreach workers, support groups, shelters, and other services operated by P.E.I. Family Violence Prevention Services Inc.
- Information about financial options, including restitution; referrals for financial assistance, and/or debt counselling; assistance with criminal injuries compensation claims (see later section for further information).
- Other assistance as needed and requested by the client.

### 3.0 Assistance Under the *Victims of Family Violence Act*

The purpose of the *Victims of Family Violence Act* is to reduce and prevent family violence and to facilitate legal protection for victims by providing a speedy civil remedy. This legislation is to be used in conjunction with the criminal law. There are two types of orders under the *Victims of Family Violence Act*: Emergency Protection Orders and Victim Assistance Orders.

Policy Title	Policy Number	Effective Date	Page
Victim Services Family Violence Protocol	VS-03-01-03 J&PS-03-02	Updated May 2014	3 of 8

### 3.1 Emergency Protection Orders

Victim Services workers, as well as police officers, are "designated persons" under the *Act*. This means that Victim Services workers can apply to a justice of the peace for an Emergency Protection Order. This application is made on behalf of, and with the consent of, the victim.

In most cases, the police are responsible for applying for Emergency Protection Orders. Victim Services workers are designated as an alternative for the police in exceptional cases, e.g., when the victim does not wish to contact the police for a legitimate reason. (An example might be an immigrant woman who feels that she cannot trust the police because of previous experience in her country of origin).

A Victim Services worker may be contacted by a police officer for assistance in applying for an Emergency Protection Order. If possible, the Victim Services worker should assist the officer as requested.

### 3.2 Procedures for Applying for an Emergency Protection Order

- 3.2.1 Determine whether family violence has occurred and the situation is serious or urgent. Determine whether the victim fits within the definition of a victim of family violence as set out in the *Act*.
- 3.2.2 If so, inform the victim that an Emergency Protection Order may be applicable. If the victim wishes an application to be made on his/her behalf, take the following steps, working in conjunction with the police as much as possible.
- 3.2.3 Telephone the Message Centre at the designated telephone number and ask them to contact a Justice of the Peace.
- 3.2.4 While waiting for the Justice of the Peace to respond, obtain information from the victim and complete the Application Form.
- 3.2.5 Determine whether the hearing should be held in person or over the phone. NOTE: Only Designated Persons (i.e., police officers and Victim Services workers) can apply for an Emergency Protection Order over the phone. A victim, or someone applying on the victim's behalf when the victim is incapable of giving consent, must do so in person. In that case, contact a Justice of the Peace and make arrangements for the victim (or the victim's representative) to meet with the Justice of the Peace in person.
- 3.2.6 The Justice of the Peace will hold a hearing, over the telephone or in person, to determine whether an Emergency Protection Order should be made. This will include administering an oath or affirmation to the applicant and obtaining the applicant's evidence. Supporting documentation (e.g., a victim's statement) can be faxed to the Justice of the Peace if the Justice of the Peace has access to a fax machine.

Policy Title	Policy Number	Effective Date	Page
Victim Services Family Violence Protocol	VS-03-01-03 J&PS-03-02	Updated May 2014	4 of 8

If the Justice of the Peace decides to make an order:

- 3.2.7 Fill in parts 2, 3 and 4 of the Emergency Protection Order as the Justice of the Peace directs. The information on parts 2, 3 and 4 of the Order must be exactly the same as what the Justice of the Peace writes on part 1 of the Order.
- 3.2.8 Give part 3 to the victim and tell him/her to keep it with them at all times. A police officer serves part 2 on the respondent and files part 4 (with the Affidavit of Service on the reverse) with the court. A police officer also ensures that the Emergency Protection Order is entered on CPIC.

### 3.3 Rehearings and Reviews of Emergency Protection Orders

All Emergency Protection Orders are reviewed by a judge of the Supreme Court within five days to ensure that the conditions specified in the *Victims of Family Violence Act* for granting Emergency Protection Orders have been met.

If the judge is not satisfied that there was sufficient evidence to support the making of the Emergency Protection Order, the judge will order a rehearing. The Registrar is to issue a subpoena to the applicant and the applicant is required to attend the rehearing. The applicant may be subject to cross-examination by the respondent or the respondent's legal counsel.

If either the victim or the respondent has asked that the order be changed or revoked, the judge may order a review hearing. This includes a request by the victim to have the Emergency Protection Order extended until an application for a longer-term order, such as a Victim Assistance Order or an order under the *Family Law Act*, is heard.

- 3.3.1 If the victim wishes to be represented by a lawyer at a rehearing or review hearing, the Victim Services worker should make a referral to Family Legal Aid, if the victim meets the financial eligibility criteria, or direct the victim to the Lawyer Referral Service.
- 3.3.2 If the victim wishes to represent him/herself or is unable to obtain legal assistance, the Victim Services worker will provide an Information Sheet for Rehearings and Review of Orders and provide information and support. The worker cannot provide legal advice or represent the victim at a rehearing or review hearing.

### 3.4 Victim Assistance Orders

Victim Assistance Orders are an option for victims of family violence in non-emergency situations or as a longer-term Order to continue after an Emergency Protection Order expires.

Victim Assistance Orders require an application to the Supreme Court. An Information Kit is available to explain the application process. The Information Kit also includes the necessary

Policy Title	Policy Number	Effective Date	Page
<b>Victim Services Family Violence Protocol</b>	<b>VS-03-01-03 J&amp;PS-03-02</b>	<b>Updated May 2014</b>	<b>5 of 8</b>

forms. Because an application involves a formal Supreme Court process, victims of family violence are not usually able to apply on their own behalf.

- 3.4.1 Victim Services workers should make a referral to Family Legal Aid, provided that the victim meets the financial eligibility criteria, and explain why the client needs a Victim Assistance Order. If the client is not eligible for Family Legal Aid or Family Legal Aid is unable to assist, the worker should direct the client to the Lawyer Referral Service, unless the client already has a lawyer.
- 3.4.2 The worker should provide the client with an Information Kit, review the contents with him/her, provide assistance and clarification but not legal advice, and encourage the client to do as much of the groundwork as possible under the circumstances. The Information Kit is intended to help victims of family violence gather and organize the necessary documents and do some of the initial drafting, but legal advice should be obtained before finalizing and filing the documents. Also, if there is a hearing, it would be best for the victim to have legal representation, especially if the respondent has a lawyer.

#### **4.0 Victim Impact Statements**

A victim impact statement describes the harm done to, or loss suffered by, the victim of a criminal offence. The victim impact statement may include information about the physical injury, emotional impact, and financial loss resulting from the crime for which charges have been laid.

- 4.1 If charges are laid, the worker will explain the purpose of and the procedures for preparing a victim impact statement, and will give the client a Victim Impact Statement Information Sheet. If the client chooses to prepare a victim impact statement, the worker will assist with preparation and filing, in accordance with the policy and procedures approved by the Attorney General.
- 4.2 The victim impact statement is the victim's statement. Victim Services staff type it in the prescribed format and have the victim review it and make any desired changes. Once corrections have been made, the victim signs it, and Victim Services staff witness it and file four copies with the clerk of the court. Upon finding of guilt, the clerk distributes copies to the judge, the Crown attorney and defence counsel. If a pre-sentence report is ordered, the clerk is to distribute the fourth copy to Probation Services.
- 4.3 If the accused is found guilty, the judge will consider the victim impact statement when deciding on the sentence. The victim may read the victim impact statement aloud at the sentencing hearing. The victim may be required to testify to verify the contents of the victim impact statement.

Policy Title	Policy Number	Effective Date	Page
Victim Services Family Violence Protocol	VS-03-01-03 J&PS-03-02	Updated May 2014	6 of 8

- 4.4 There are some special considerations which Victim Services workers must keep in mind when assisting victims of family violence with preparing victim impact statements. The primary consideration is the difficulty the client will probably experience trying to separate the emotional effects of the offense for which charges have been laid from the emotional effects of other abuse and offences committed during the relationship with the abuser. The worker needs to understand the frustration the victim may feel in this regard.
- 4.5 The client may wish to tell the judge what sentence he/she feels is appropriate, but the Victim Services worker must advise that, except for a request for restitution or a stay-away order, the victim impact statement does not provide for recommendations regarding sentence. The Victim Services worker should assist the client in making his/her views known to the Crown attorney who may take this information into consideration in the Crown's submission to sentence.

## 5.0 Assistance Through the Court Process

- 5.1 The worker will inform the client of the outcome of election/plea, any upcoming court dates and times, and any other relevant information from the accused's court appearances. This information will be provided, by telephone if possible, at the earliest opportunity. If a preliminary inquiry or trial is scheduled, the worker will also provide the client with a copy of the Guide for Witnesses.
- 5.2 The worker will advise the client of further assistance available during the court process, i.e., court orientation, appointments(s) with the Crown attorney prior to the court date, accompaniment and transportation, if needed, to court. Depending on the client's wishes, the worker will then provide any or all of these services as described below.

Since Crown attorneys are not generally assigned to cases until approximately one week before the trial/preliminary inquiry date, the worker will explain that it is best to wait until the week before the court date to arrange this appointment. At that time, the worker will find out who will be prosecuting the case, attempt to arrange an appointment at a suitable time, accompany the client and provide transportation, if needed. (**NOTE:** in some cases, it may be necessary to consult with a Crown attorney at an earlier date).

For clients who have not been to court previously, familiarity with the courtroom setting can help alleviate anxiety. If the client is particularly anxious about being a witness, court orientation should be provided as soon as possible. This may be supplemented by viewing of a court preparation video. Court orientation consists of visiting the courthouse and explaining court procedures in an empty courtroom setting. The information provided includes the topics covered in the Guide for Witnesses and answers to any



Policy Title	Policy Number	Effective Date	Page
Victim Services Family Violence Protocol	VS-03-01-03 J&PS-03-02	Updated May 2014	7 of 8

general questions about court which the client may have. Questions specific to the case should be directed to the Crown attorney.

If the client wishes, court orientation may be combined with the appointment with the Crown attorney. In this case, it is best to provide the court orientation first so that the client is familiar with general court procedures before meeting with the Crown attorney for case-specific information.

## 6.0 Follow Up/Liaison with other Criminal Justice Personnel

- 6.1 Once the court process is complete, the Victim Services worker will continue to provide information, support, and liaison with criminal justice personnel as needed. This may include contact with Probation Officers, the Turning Point Coordinator, Correctional Centre staff, and/or Parole Officers regarding such matters as no contact orders, restitution, release dates and conditions and violations of orders.
- 6.2 When a jail sentence of six months or longer has been ordered, the worker will ask the client if he/she wishes to fill out a National Parole Board/Correctional Services Canada Request for Information form. If yes, the worker will provide and assist with completion of this form. If the client wishes, the worker may act as agent (i.e., contact person) for the client.

## 7.0 Criminal Injuries Compensation

If the victim has received physical injuries and/or emotional trauma requiring treatment as a result of crime(s) committed, he/she may be eligible for criminal injuries compensation. Compensation may be awarded when a person is injured or killed in Prince Edward Island as a victim of an offence such as assault, sexual assault, murder, robbery, criminal negligence, or arson, or other offences listed in the Schedule of Offences in the *Victims of Crime Act* Regulations. The crime must have occurred after September 30, 1989, the proclamation date of the *Victims of Crime Act*. The maximum amount of compensation payable to all applicants in respect of the injury or death of one victim is \$15,000.

- 7.1 If it appears that a client may be eligible for criminal injuries compensation, the worker will ask if he/she wishes to apply and will provide an information sheet. If the client does wish to apply, the worker will provide an application form and offer to assist by being present while the victim completes the form or, if the victim has difficulty with reading and writing, may complete the form by reading the questions and writing down the answers. If the worker completes the form, or any part of it, on the applicant's behalf,

<b>Policy Title</b>	<b>Policy Number</b>	<b>Effective Date</b>	<b>Page</b>
<b>Victim Services Family Violence Protocol</b>	<b>VS-03-01-03 J&amp;PS-03-02</b>	<b>Updated May 2014</b>	<b>8 of 8</b>

the worker will sign and date it below the applicant's signature. Assisting the client with the application helps to ensure that the client understands the questions and provides full and accurate information. This will help with the investigation of the claim and will save time in the long run.

- 7.2 Once the application and necessary consent forms have been completed and signed, the worker will initiate investigation of the claim. The worker will immediately forward the original completed application form to the Provincial Manager, together with a covering memorandum outlining the information the worker intends to gather during the investigation of the claim.
- 7.3 During the investigation, the worker will gather the following information, if applicable: victim impact statement, medical report(s), hospital report, police report, information from employer and counsellors, information from court proceedings, and any other relevant information. The worker will attend court proceedings, if possible, and take notes on evidence given.
- 7.4 When all the necessary information has been obtained and the court process is complete, the worker will write a case analysis and forward all documentation to the Provincial Manager, who will either assess the claim and write a report and recommendation to the Attorney General or forward the claim to the adjudicator in the Legal Services Division for this purpose. The Attorney General will then make a decision regarding the claim.
- 7.5 In some cases, claims may be reduced or denied because of contributory behaviour of the victim, lack of cooperation with law enforcement authorities, failure to apply within one year of the date of the offence, or because the offence committed is not compensable. Any amounts recovered from other sources, e.g., restitution or insurance, will be deducted from the claim so that the victim is not compensated twice for the claim.
- 7.6 One of the principles of criminal injuries compensation is that the offender should not benefit from any award made to a victim of crime. This consideration raises a special issue in cases where the victim continues the relationship with the offender. However, even in these cases, some losses such as dental costs may be compensable or it may be possible to place the award in trust with the Public Trustee.
- 7.7 In some cases, the victim may be in immediate financial need. If the victim is in financial need and it appears probable that a compensation award will be granted, the worker will write an interim case analysis at the earliest opportunity, provide all available information to the Provincial Manager, and request consideration of interim payment(s) to the victim. Interim payments may be made for compensable financial expenses related to the victim's injury or death.