

NATIONAL DOMESTIC VIOLENCE PROTOCOL FOR THE VIRGIN ISLANDS

Commissioned by the
Office of Gender Affairs
Ministry of Health and Social Development



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National Domestic Violence Protocol for the Virgin Islands

1.1 Background

This domestic violence protocol was commissioned by the Office of Gender Affairs, Ministry of Health and Social Development. It is a resource document intended to assist professionals with the prevention, reporting and management of domestic violence, with particular emphasis on intimate partner abuse.

The development and implementation of a protocol was regarded as a critical step in ensuring a more coordinated, integrated response system to the growing levels of domestic violence in the Virgin Islands (VI). A 1998 Haniff study clearly indicated that almost thirty percent (30%) of the women in the VI have experienced physical abuse at the hands of their intimate partner. This figure is consistent with the alarmingly high rates of domestic violence in the region, where similar findings have been made.

Regional Studies in the Prevalence of Violence Against Women¹

- **One in four** women in Guyana has been physically abused in a relationship.
- **Approximately 30%** of women surveyed in Trinidad & Tobago experienced domestic violence.
- **67% of women** in Suriname have experienced violence in a cohabiting relationship.
- Domestic homicide cases increased in the Bahamas from **42% in 2000 to 53% in 2002**.
- **30% of adult women** in Antigua & Barbuda and Barbados have experienced some form of domestic abuse.

¹ Regional Studies in the Prevalence of Violence Against Women (Taken from UNIFEM/ECLAC Regional Assessment of Actions to End Violence Against Women).

The Royal Virgin Islands Police Force domestic violence reports for the year 2009 and 2012 respectively, suggested a significant increase in cases across the whole Territory. This is a concern, given the country’s small population and, more importantly, the realization that reporting rates of domestic violence were very low compared to actual rates of prevalence.

Table 1 - indicates that reporting rates have risen significantly, following the introduction of the “pro-arrest” policy for the RVIPF. In the table below, the data for each year is a full 12 months. Furthermore, the “pro-arrest” policy has increased the number of prosecutions, as indicated by the prevalence and type of offence indicated.

Table 1
Year-on-year Domestic Violence Reports 2009-Q1 2012.

Domestic Violence: 2009 - 2012

<i>Crime</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
<i>Murder</i>	0	0	0	1
<i>Attempted Murder</i>	0	1	1	0
<i>Serious Assault</i>	8	15	23	38
<i>Burglary</i>	0	0	0	2
<i>Common Assault</i>	51	52	52	95
<i>Sexual Offence</i>	0	0	0	1
<i>Criminal Damage</i>	7	9	6	33
<i>Theft</i>	0	0	0	1
<i>Other Minor Offences</i>	3	7	5	13
<i>Total</i>	69	84	87	184

Overall, it can be stated that reporting of domestic violence has increased, consequent of the new RVIPF Domestic Violence policy. The data is becoming more accurate in that cases are not being marked as “No Police Action” or “All Quiet on Arrival”. Officers are held to account for not adhering to the policy and managers are exhorted to attend whenever possible. This increase in reported incidents, concurrent with an increase in prosecutions

of the primary offenders, has been mirrored in many other jurisdictions². It is not that Domestic Violence has increased *per se*, but that victims are coming forward thereby increasing data.

It is against this backdrop, that the VI in coming to terms with the realities of domestic violence and all of its serious implications, embarked on a process that will result in a protocol to guide both the internal procedures of major stakeholders, as well as the external working relationship between these stakeholders. The need for guidance in this regard was underscored by an existing system that was fragmented and insufficiently coordinated. Stakeholders not only had underdeveloped internal response systems, but the working relationship between key stakeholders was also in urgent need of redress so as to ensure a more effective response to domestic violence.

1.2 Terms of Reference

The specific objectives of the protocol were informed by the terms of reference as follows;

- 1) To create awareness amongst stakeholders of the importance of adopting a more integrated and systematic response to domestic violence.
- 2) To serve as a guide for stakeholders in the prevention, reporting and management of domestic violence.
- 3) To support a coordinated response to domestic violence that would better facilitate data collection on the nature and extent of domestic violence.
- 4) To enhance the systemic responses to domestic violence so as to ensure more effective service delivery to victims of domestic violence.

² http://www.iwraw-ap.org/resources/pdf/41_shadow_reports/UK_SR_on_VAW.pdf

It is expected that stakeholders will receive sensitization training in the use and correct application of the protocol. This follow up activity is critical to the overall success in the implementation of the very objectives of the protocol.

Why Have A Domestic Violence Protocol?

To establish standards for points of contact, methods of contact and purpose of contact between agencies to:

- define professional roles and responsibilities;
- strengthen and clarify relationship between relevant agencies;
- improve the credibility and accountability of the agencies involved;
- inform and educate the community about how cases of domestic violence are handled; and
- ensure consistency in the way that cases are handled.

- i. A protocol which is a set of policies, procedures and agreements to be followed helps to offer direction to the agencies and professionals involved in domestic violence cases.
- ii. Medical professionals, social workers, police, prosecutors and judicial officers will be guided by the coordinated approach promoted by the protocol.
- iii. The mandates of each agency must be respected, overlapping areas of activities among professionals must be acknowledged and partnerships should be expected to move effectively towards meeting the needs of victims of domestic violence.

- iv. This type of multi-disciplinary approach to the prevention, reporting and management of domestic violence is widely recognized as the most effective way of responding to domestic violence. The multidisciplinary nature of the responses encourages the respective professional disciplines to work collaboratively and requires implementation sharing and open communication among professionals.

1.3 Scope and Methodology

1.3.1 Scope

The protocol is limited in scope to address domestic violence within the context of intimate partner relationships, vulnerable persons in need of protection and parents or sibling of a child who may or may not be living in the same household and any person residing in the household.

The decision to limit the protocol to these circumstances was informed by the following considerations:

- i. Intimate partner violence is a large component of domestic violence and is a major issue for the Virgin Islands relative to other types of domestic violence.
- ii. Manageability in the use of the protocol required that its application not be over extended to cover every possible type of domestic violence.
- iii. A child abuse protocol is presently being drafted by the Social Development Department within the Ministry of Health and Social Development, which will address the specific needs of child victims.
- iv. Easy access to information and general user friendliness was an essential criterion of the protocol. Information overload was actively discouraged.

The protocol is intended to guide the work of four (4) major areas of service delivery:

- i. Medical Services
- ii. Law Enforcement
- iii. Social Services
- iv. Legal Services

The protocol addresses both the internal processes and procedures of each of these areas of service delivery, as well as the working relationship between them.

1.3.2 Existing Protocols

The Ministry of Health and Social Development acknowledges the existence of two (2) existing protocols intended to also guide the work of medical professionals at Peebles Hospital and the police officers of the Royal Virgin Islands Police Force respectively. These protocols are limited to the internal procedures of the respective departments and have been implemented with varying degrees of success. These documents have helped to inform this more broad-based National Protocol which goes well beyond the scope of the existing documents. These existing documents should continue to help guide the internal procedures of the applicable service providers. In fact, as previously indicated, additional standards which can guide a specific area of responsibility is to be encouraged. **Nevertheless, it is understood and recognized that the national protocol is the primary instrument to be utilized by all key stakeholders and will supersede any and all existing protocols to the extent that there are any inconsistencies therein.**

1.3.3 Methodology

The methodology applied to the creation of this protocol attributed paramount importance to a consultative process that guaranteed full participation by representatives of each stakeholder group.

Stakeholders participated in a multidisciplinary round - table discussion in November 2008. At that session, major gaps and deficiencies were highlighted and the general response system was evaluated. This was followed up with individual interviews and focus groups comprised of the specific sectors, creating the opportunity for more targeted discussion of the specific issues relevant to each area of service delivery.

A consultative process was critical to facilitating consensus amongst stakeholders and willingness to bring meaningful effect to the actual implementation of the protocol.

1.4 *Statement of Principles*

A sensitive approach to the problem of domestic violence requires a commitment to certain guiding principles. The principles that serve as the foundation for this protocol are as follows:

- 1) Persons have the right to live a life free from abuse.
- 2) Domestic Violence is a serious social problem with short and long term implications to victims, their families and society as a whole.
- 3) Domestic Violence should be treated seriously and an immediate response to incidents of abuse should be provided.
- 4) Effective responses for victims of domestic violence require cooperation and coordination amongst service providers.
- 5) Treatment and support resources for victims, their families and offenders are components of an effective multidisciplinary response to domestic violence.

1.5 Statement of Co-operation between Stakeholders

It is recognized that there is a need for coordination of services for victims of domestic violence and their families. The contents of this protocol reflect the Government's continued commitment to ensuring that all persons in the Virgin Islands, especially the most vulnerable to domestic violence, are protected and fully valued as members of society.

Accordingly, we endorse this protocol for the prevention, reporting and management of domestic violence. We consider it essential that all professionals who operate under our Direction adopt these protocols and hence forth have them as an essential part of their regular operation. It is our sincere hope that these protocols will provide the direction that has been sought regarding the handling of domestic violence cases and will enable us to fulfill ongoing responsibilities to the people of our Territory.

Minister of Health and Social Development

Date: _____

Director of Public Prosecutions

Date: _____

Commissioner of Police

Date: _____

Domestic Violence - Definitions, Characteristics and Considerations

2.1 Definitions

Domestic Violence is defined by the relationship of the victim to the abuser and not by the act that is committed. Generally, it includes harmful acts or threats, occurring between current or former family or household members. This broad interpretation of domestic violence applies to sexual or intimate partners; children, the elderly and or any other family/household member.

Domestic Violence is more narrowly defined in the **Domestic Violence Act 2011** as follows:

“Domestic Violence means any controlling or abusive behavior that harms or may harm the health, safety or well-being of a person or any child and includes but is not limited to the following:

- a. physical abuse or threats of physical abuse;*
- b. sexual abuse or threats of sexual abuse;*
- c. emotional, verbal or psychological abuse;*
- d. economic abuse;*
- e. intimidation;*
- f. harassment;*
- g. stalking;*
- h. damage to or destruction of property; or*
- i. entry into the applicant’s residence without consent, where the parties do not share the same residence.”*

Definition under the Protocol

Domestic Violence for the purpose of the protocol will be restricted to acts of violence, whether physical or verbal abuse on a sexual or intimate partner, whether presently or formerly a member of a household or whether as a party to a visiting relationship.

This Protocol acknowledges more women are abused than men but is non- biased to gender in its contents.

2.2 Domestic Violence: - Characteristics and Special Considerations

Characteristics of Domestic Violence

- 95% of adult victims of domestic violence are women.
- Domestic Violence occurs in every racial, ethnic, religious and socio-economic group.
- Perpetrators use violence as a tool to achieve power and control over their partner.
- Violent behavior often increases in severity and frequency at the time of separation and thereafter.
- Victims may not leave and may even return to an abusive situation. There are a number of factors including economic dependence that compels them back into the abusive relationship.

Over 50% of men who use violence against their partners abuse their children as well.

Why don't they leave?

One of the most commonly asked questions of victims who remain in abusive relationships is “*why didn't you just leave?*” There are many reasons for that reluctance to leave.

- The Victim believes the abuse is his/her own fault.
- The victim loves the abuser and remembers him/her as a charming and loving person. The victim wants the violence to end, not the relationship.
- The victim is ashamed and embarrassed.
- The victim is afraid of leaving.
- The victim does not have any where to go.
- The victim does not have enough money to support himself/herself and the children without the abuser.
- The victim may feel pressured to stay in the relationship because of his/her religion or actual beliefs.
- The victim may be under family or social pressures to stay in the relationship.
- The victim may be dependent on the abuser due to their immigration and labour status in the country.
- Past efforts at leaving may have failed or resulted in further violence.
- The victim believes the abuser will change.

Medical Interventions

A - Policy Considerations

- Medical intervention is particularly important in domestic violence cases because it is often the first point of contact with the system for most victims. Studies have established that early detection and timely interventions in domestic violence is of extreme importance.
- All health care providers should be trained to recognize and manage victims of domestic violence.
- All patients whose complaints are inconsistent with their clinical presentation must be evaluated for domestic violence.
- An integrated multidisciplinary approach to responding to domestic violence is to be actively encouraged and whenever possible a team approach with law enforcement and social services.

Acknowledging that the laws are silent on the issue of reporting domestic violence, outside the ill treatment or abuse of a child, it is agreed that the policy to govern reporting of domestic violence on the part of medical professionals is as follows:

- i. If a patient is under the age of eighteen (18), an injury believed to have been caused by a criminal act must be reported to the police and/or the relevant child protection agency. This is consistent with the mandatory reporting policy on child abuse to be issued by the Ministry of Social Development.
- ii. If the patient is eighteen (18) years of age and older and has **received a gunshot wound, a knife wound, or other serious bodily injury**, injuries caused by

domestic violence or sexual assault must be reported to the police, “**Serious bodily injury**” means any harm to the body which causes or could cause severe, permanent or protracted loss of, or impairment to, the health or function of any part of the body.

- iii. Patients who do not fall into either of the above categories, but who have injuries caused by domestic violence or sexual assault, **must be asked whether they object to having their injuries reported to the police.**

B - Procedures

1. All patients should be interviewed alone in a quiet, private environment where confidentiality is assured.
2. Interviews should be approached in a direct, non threatening and empathetic manner

Example of Interviewing Strategies

- *I noticed you have a number of bruises. Could you tell me how they happened? Did someone hit you?*
- *You seem frightened of your partner. Has your partner ever hit you?*
- *You mentioned your partner uses drugs/alcohol. How does your partner act when drinking or on drugs.*
- *Your partner seems very concerned and anxious, was he responsible for your injuries?*
- *You are not alone, you are not to blame, there is help available; you do not deserve to be treated this way.*

3. Obtain a complete history of symptoms or injuries; trauma history and relevant social history.
4. Accurate and concise documentation is essential for future medical and legal assessments.

Documentation Tips

- *Avoid long descriptions and quotes which deviate from the medical problem.*
- *Avoid subjective data that might be used against the patient*
- *If patient states abuse as the cause of the injury preface patient's explanation by writing "Patient states....."*
- *Where abuse is suspected but patients deny being assaulted write, "Patient explanation of injuries is inconsistent with physical findings.*
- *Record size, pattern, estimated age, description and location of all injuries. (Body maps/ Photographs should be used). NB Where photographs are considered necessary; RVIPF should be contacted for obtaining the said photographs.*
- *Record non-bodily evidence of abuse, such as torn clothing or jewelry.*

5. Preserving physical evidence is critical. When medical or forensic evidence is collected, chain of evidence guidelines should be strictly followed. Law enforcement officers will help facilitate this process.
6. Conduct a safety assessment if the patient is believed to be a victim of domestic violence.

Risk Assessment

- Are you afraid to go home?
- Are weapons available to the abuser?
- Has the abuser been drinking or taking drugs?
- Has the abuse been increasing in frequency and /or severity?
- Do you have children?
- Are they being abused?
- Has the abuser threatened to commit suicide if you leave?
- Has the abuser threatened to kill you?
- Do you have a safe place to go?
- Would you object to me notifying the police and seeking their involvement in this matter? **(please note this question is not relevant where patient is under sixteen (18) or has received serious bodily injury)**

7. Pursue a treatment plan that integrates diagnosis lab-work and x rays as required; treatment for physical injuries and emotional trauma; education on the physical and emotional sequel of chronic battering and referral to other service providers.
8. When a victim has been sexually assaulted, HIV testing and the option of post-coital contraception should be routinely offered.

C - Working with other Key Stakeholders

In acknowledgement of the established effectiveness of a more integrated multi-disciplinary response system to domestic violence, all reasonable efforts should be made to ensure a coordinated approach that includes other important service providers.

<i>Working with police officers (RVIPF)</i>	<i>Working with Social Service Providers</i>	<i>Working with Legal Professionals</i>
<ul style="list-style-type: none"> • Reports to the Royal Virgin Islands Police Force (RVIPF) should be made consistent with the guidelines already established. • So as to avoid having the victim give multiple interviews, police officers should be present for interviews, where police involvement is either required or requested. • Police Officers should be present for collection of medical/forensic evidence to ensure chain of evidence protocol. • If a victim is reluctant to involve the police, he or she should be provided with the address and phone number of their nearest police station before they leave the medical centre. • Even if the victim is reluctant to involve Police, in all cases involving violence the Police should be informed of any risk they face, in order to avoid their return home into danger. • The Family & Juvenile Unit of the RVIPF should be requested first. If none of the Family & Juvenile Unit Officers are available then of course an officer (trained with the RVIPF Domestic Violence Protocol) outside of this unit should be utilized. 	<p>Psycho-social support of victims is important. A support person, who is trained to work with victims of domestic violence, can go a long way in making a victim feel more comfortable and secure.</p> <ul style="list-style-type: none"> • Victims should be encouraged to speak to a social worker or support person. • Referrals to a social worker support person should ordinarily occur as soon as possible in the medical intervention. • Having facilitated the victim through the medical process, the social workers at the hospital should contact the Social Development Department or designate to speak with the victim and offer other support services. • Social service providers can offer meaningful assistance during the interview and should be contacted for the involvement in that process as soon as possible. • Where a victim has been sexually assaulted, a support person is required from inception. 	<p>Medical Professionals do not usually interact with lawyers, prosecutors, magistrates unless there is a subsequent court process.</p> <ul style="list-style-type: none"> • In the event of a court proceeding, medical professionals should offer their co-operation and assistance. This may include offering expert evidence at a trial. Familiarity with their case, notes and other relevant documentation would be required.

Social Service Interventions

D - Policy Considerations

Social Service plays an integral role in the systemic responses to domestic violence. Social Workers provide myriad services to victims and perpetrators of domestic violence.

- (i) Social service providers would include social workers, counselors, or any organised work intended to advance the social condition of the victim.
- (ii) Social service providers who would ordinarily work with victims of domestic violence should be trained to handle these types of cases effectively.
- (iii) Social service providers who work with families experiencing domestic violence take on a significant responsibility to act ethically and within or above the expected standard of practice. Ethical issues of confidentiality, competence, self-determination and cultural awareness are of particular importance in the handling of domestic violence cases.
- (iv) Social service intervention should be viewed as an essential component in the integrated response to domestic violence. The linkage with other services, such as medical, law enforcement and legal is to be vigorously encouraged and consistently cultivated.

E - Procedures

1. In all cases of domestic violence, deliberate consideration should be given to the inclusion of a social worker or other social service providers to strengthen support available to the victims.
2. Social service support to medical professionals should be offered in a timely fashion.
3. Support to the victims in the early stages of the traumatic incident is important.
4. Social service support to law enforcement is also of critical importance and should be encouraged. Social workers should be equipped to offer support at various stages of the law enforcement process including facilitation of statements and preparation for trial.
5. Social workers should ensure documentation of all cases requiring their involvement. This applies to all cases of domestic violence, including those where social work assistance was requested by another stakeholder. (e.g. hospital, police etc.)
6. In the absence of mandatory reporting laws, social workers can encourage victims to report domestic violence but cannot themselves report the violence without the full consent and approval of the victim. In the case of domestic violence in a home with children, there is a mandatory obligation to take action.
7. Counseling services to victims and perpetrators is another area of intervention by social service providers. Counseling to offenders should be premised on the core principles of victim safety and offender accountability.
8. Accordingly, counseling of victims and offenders in the context of domestic violence is not marriage or partner counseling and should not be geared at effecting reconciliation. Joint sessions should never be undertaken where there is physical or sexual abuse or where the victim is at any risk of harm.

9. Counseling services for offenders should be provided over a reasonable period of time and should require a minimum number of sessions to be attended.
10. Counseling services for victims should be made available for victims from a duly licensed person who is approved by the Chief Social Development Officer or designate.
11. Social work support to the court process should be encouraged. The work of prosecutors, magistrates and judges can often be enhanced by social work support. Accompanying victims to court and other types of interventions are extremely helpful.
12. Referrals to other agencies or social service providers e.g., housing and public assistance should be formally documented and follow up with these entities should be a standard procedure.
13. Social Development Department or designate is the coordinating agency for shelter placements. All requests for emergency placement in a shelter facility should be arranged through that agency.
14. Social workers and other social service providers should play a pivotal role in advocacy and generally ensuring that victim's rights are safeguarded.

F - Working with other Key Stakeholders

Social service intervention is a vital component of coordinated, systematic response to domestic violence. Although, social workers and other service providers offer independent services to their clients, social service delivery is a much depended - upon intervention for other stakeholders that are involved in the area of domestic violence.

<i>Working with Medical Professionals</i>	<i>Working with Law Enforcement</i>	<i>Working with Legal Professionals</i>
<ul style="list-style-type: none"> • Providing support to victims at the Peebles Hospital. This will be offered primarily by medical staff and in house social worker until the Social Development Department is informed and becomes the lead agency in offering support to victims. 	<ul style="list-style-type: none"> • Assisting Law Enforcement, when appropriate, with securing statements from victims. This is often required when victims are feeling intimidated and anxious. • Helping to explain the overall process to victims in a way that is more user friendly. • Working with law enforcement to secure safety of the victim of domestic violence and their family/friends. • Regular Case Management meetings with Family and Juvenile Unit 	<ul style="list-style-type: none"> • Providing assistance to victims for the obtainment of Protection Orders and legal representation in domestic violence-related court proceedings. • Providing general support for victims during court appearances. • Providing counseling services once they are requested by the court or client. • Assisting victims with referrals to other agencies or required services. e.g. housing, public assistance etc.

Law Enforcement Interventions

G - Policy Considerations

In September 2011, the Royal Virgin Islands Police Force introduced a Domestic Violence Policy that recognized the International obligations placed on the Territory, consequent of the drive to reduce Domestic Violence globally. The Force now operates a “pro-arrest” policy, where, in an effort to bring resolution to repeat cases, Officers are required to arrest the “predominant aggressor” (or both parties if necessary) and either summons or charge them to bring them before the courts. In cases where no arrest has been made, the duty Inspector shall report to the Superintendent (Community Policing) with an explanation. Officers shall always complete a domestic violence report form following response to or investigation of an allegation of domestic violence whether or not an arrest has been made. Failure to complete a domestic violence report will be regarded as neglect of duty under Police Regulations.

Together, the RVIPF policy and the National Domestic Violence Protocol offer a well-considered strategy for ensuring the safety of victims and offender accountability.

- Domestic violence is a crime and should be treated accordingly. It ought to trigger full investigation and collection of all available evidence.
- Given the positioning of law enforcement, it is often the site where the first report of a domestic violence incident is received. An expeditious and effective response system is therefore of critical importance.
- The advice of the Director of Public Prosecutions will be sought in every case of Domestic Violence. Police Officers are now guided solely by the consideration of **“whether there is reasonable cause to believe that an offence has been**

committed.” If this threshold has been met, there is a presumption that the officer will arrest the accused, whether or not the victim is co-operative with this course of action.

- The use of warnings is no longer an acceptable strategy. However, if circumstances warrant the issue of a warning, a police officer must justify this course of action in writing and the warning must be duly recorded. Any such warning shall be following arrest, issued at a Police Station at the time, and not at the scene or after the event.
- Offences, like common assaults, require special attention because of the inherent difficulties currently encountered in having these matters vigorously pursued. Many domestic violence incidents are categorized as common assaults, and most incidents occur in the privacy of the home. In these present circumstances, a summons must be laid in order to lay charges against the offender. This has caused undue delay and compromises the safety of victims. It is against this backdrop that the protocol has set out some guidelines in this regard.
- The **Family and Juvenile Unit** of the RVIPF is the designated department for handling most cases of a domestic violence nature. However, the initial response to a domestic violence incident is most likely to come from a Patrol or Neighbourhood Officer. It is vitally important that strong links are forged between the Family and Juvenile Unit, Neighbourhood Officers, and Patrol Officers, so as to guarantee that domestic violence cases are being handled by the specialized unit best equipped to handle these types of cases.
- The civil remedy for victims who are seeking protection from an abusive partner is currently sought under the **Domestic Violence Act 2011**. In this new legislation Police Officers and/or Welfare Officers may also apply on behalf of vulnerable persons in need of protection ss. 4(1)-4. A protection or other types of orders can be sought, restraining the offender from having contact with the victim. However, these

protection orders are often breached and such occurrence would require the immediate and urgent response of the police.

H - Procedures

Investigation and Laying of Charges

1. Police Officers will treat all reports of domestic violence seriously and will respond to calls for their intervention in an expeditious manner. All possible efforts will be made to ensure the early and continued involvement of the Family and Juvenile Unit of the RVIPF.
2. At the scene, the investigating officer will ensure the safety of the victim and other family members. The officer will then conduct a thorough investigation and document the report regardless of the victim's willingness to press charges.

Key Elements of Investigation

- Interview victim, suspect, children and other witnesses.
- Assess extent of injuries if any.
- Document victims, suspects and children's condition and demeanor. e.g. torn clothing, broken furniture, and emotional state.
- Consider use of photographs, both to demonstrate injuries to victim and to display crime scene.

3. A case file will be prepared and submitted to the DPP for instructions on the appropriate charge in accordance with the established guidelines between the RVIPF and ODPP.

Factors Which Should Not Influence The Officer's Decision To Investigate Or Charge In Domestic Violence Cases.

- The relationship or marital status of the victim and the accused.
- Whether or not the accused was in the premises with the victim
- The verbal assurances that the violence will cease.
- The victim's history of making prior complaints
- Speculation that the victim may not follow through with the criminal justice process or the arrest may not lead to a conviction
- The officer's judgment of the severity of the alleged abuse should not be a factor
- The officer's judgment of the character of the victim or abuser or prior knowledge/opinion of that person or community's knowledge/ opinion of that person should not be factor.
- The victim's immigration status.

Common Assaults

5. Where the offence committed is a common assault, the officer should consider using the "cooling off period" pursuant to S. 18(4) and (5) of the **Domestic Violence Act, 2011**. This would permit the accused to be held in custody for a period not exceeding twenty-four hours.
6. Given the nature of common assaults, a summons must be taken out as soon as possible. **Such summons should be drafted and issued within three (3) days of the alleged offence. Every effort should be made to have the summons issued prior to the perpetrator's release from the 24 hour cooling period.**

7. **The required Domestic Violence Report will indicate the nature of the summons and the subsequent action taken.**

Bail

8. In the appropriate circumstances, alleged perpetrators of domestic violence should be placed on bail **with conditions that would facilitate the safety of the victim.** The victim should receive notice of the bail conditions. A victim's advocate through Social Development Department or designate could be utilized to ensure the victim's awareness of the bail conditions.

Protection Orders

9. Breach of a Protection Order is an offence. Where a breach has occurred, the Police Officer should arrest the accused and can do so without warrant. (S.17(1) and (2) Domestic Violence Act, 2011.

Where the parties have reconciled, despite the existence of a protection order, the protection order is still in effect and the police officer should be guided accordingly.

Other Steps

10. Consideration should always be given to referral of victims to The Department of Social Development or designate.

I - Working with other Key Stakeholders

Working with Medical Professionals	Working with Social Service Providers	Working with Legal Professionals
<ul style="list-style-type: none"> • Police Officers may often accompany victims to the hospital as a result of a serious assault. • Law enforcement intervention is frequently sought by medical professionals in circumstances where a victim has not objected to police notification. • Even in circumstances where a victim has not given permission medical professionals are required to contact the police where there is a gunshot wound or other “serious bodily injury”. • Police assistance may also be sought by the police in relation to taking photographs of victim’s injuries. • In sexual assaults, police involvement is critical for the collection of evidence and protecting the chain of evidence. 	<ul style="list-style-type: none"> • Police Officers should always consider involvement of a social worker at any stage of the process. • Referrals to the Social Development Department or any other service provider should be documented. • Any requests for emergency shelter services should be directed to Social Development Department or designate. • Where bail conditions have been imposed, officers should ensure that victims are aware of such conditions. • Referrals for counseling should be carefully considered and should not be viewed as an alternative to the appropriate law enforcement procedures. Counseling referrals can be made to Social Development or designate. 	<ul style="list-style-type: none"> • Consultations with the Department of Public Prosecutions (DPP) can be sought in the laying of complaints. • With respect to arrestable offences, bail conditions should be imposed. • Police and prosecution should adopt a coordinated approach to ensuring that domestic violence cases are brought to court in a timely fashion and that multiple adjournments are discouraged.

LEGAL INTERVENTIONS

J - Policy Considerations

Domestic Violence is criminal conduct and prosecutors have the same responsibility to aggressively prosecute these cases as they do with any other violent crimes. Magistrates and Judges in their role as adjudicators also play an essential role in the dispensation of justice in domestic violence matters. Justice responses to domestic violence, both in the criminal and civil jurisdiction of the Court, can greatly influence the overall effectiveness of a co-ordinated community effort to end violence against intimate partners.

As provided by The Virgin Islands Constitution Order 2007 any person charged with a criminal offence shall be afforded a fair hearing within a reasonable time by an independent and impartial court.

Goals of Prosecution

- To prosecute fearlessly, impartially transparently, and diligently.
- To hold up the principles of equality before the law and fairness in criminal court.
- To protect the public.
- To establish and maintain a fair and vigilant prosecution service that defends the public interest thereby promoting public confidence in the role of law.
- To ensure the Criminal Justice System works in the interest of all persons which includes the victims and accused concerned in domestic violence.

1. Victims of domestic violence may be reluctant to see the court process to its legal conclusion. This may be due to any number of reasons.

Reasons for Victim Reluctance

- Fear of retaliation by the defendant.
- Unwillingness to confront the defendant's anger for involving the justice system.
- A feeling of shame or guilt that the victim's own behaviour may have caused the attack in some way or that the court may perceive the victim's behavior as causative.
- A desire to put the whole incident behind and move on with life.
- Denial, ambivalence, withdrawal and emotional swings as a result of being a victim of trauma.
- These reasons are then compounded by the victim's realities which could include:
 - The victim may have genuine concern or love for the abusive partner.
 - The victim may be under religious, family or social pressures to support the spouse.
 - The victim and children may be dependent on the defendant for economic support.
 - The victim may believe that the intervention of the criminal justice system will not be effective in stopping the violence, or providing protection.

2. The Director of Public Prosecutions has the power under section 59 of the VI Constitution Order 2007 to institute or discontinue prosecutions in the Territory. (The Royal Virgin Islands Police Force have the power to prefer a charge once they have sufficient evidence to do so).

3. Whereas a policy of mandatory prosecution may not be feasible, it is vital that prosecutors, magistrates and Judges operate under some well defined guidelines relating to the treatment of domestic violence cases where the victim is reluctant to

proceed. These guidelines should demonstrate the Crown's serious regard for the safety of victims, and the broader public- interest consideration of creating a violent free society.

4. Given the emotional and other difficulties experienced by victims, a court hearing within a reasonable time is of paramount importance. For many victims "justice delayed is justice denied." A deliberate policy geared at prioritizing the scheduling of cases involving domestic violence should be duly considered. Adjournments of these cases should be resisted especially in those situations where victims are emotionally distraught, otherwise vulnerable or where the victim and children are displaced from the home.
5. Increasingly, other jurisdictions have developed strategies for initiating prosecution of domestic violence cases in the absence of the primary witness/virtual complainant. These strategies require thorough police investigation and trial preparation.
6. Protection Orders under the Domestic Violence Act 2011 provide a civil remedy to victims who need protection. Applications for these orders should be brought before the High Court Division on an expedited basis and dealt with as swiftly as possible. These orders, by their very nature, are usually sought in situations where the victim is at risk of harm and require the immediate intervention of the justice system. Reportedly, these matters are currently taking weeks, sometimes months before they are given a date for hearing. Urgent redress of this situation is required and the protocol requires that hearing dates be scheduled on an expedited basis.

K - Procedures

1. In deciding whether to pursue a specific charge, the DPP must determine whether there is sufficient admissible evidence to provide a realistic prospect of conviction

against the defendant and whether the prosecution is in the public interest. This requires a review of the FACTS and supporting evidence.

Facts for Review

- The elements of the offence under consideration.
- The extent and seriousness of injuries and/or threats.
- The use or threatened use of a weapon
- The defendant's criminal history and history of violence towards the victim.
- The potential lethality of the situation.
- The defendant's use of drugs or alcohol.
- The victim's co-operation or reluctance.
- Can the evidence be used in Court?
- Is the evidence reliable?

Examples of Supporting Evidence

- Statements from the victim and potential witnesses.
- Photographs of the victim's injuries and victims environment where the physical abuse took place.
- Medical records documenting the victim's injuries.
- Police Reports.
- Physical evidence e.g. weapons, torn clothing, blood stained clothing, broken furniture.
- Any audio visual recording e.g. recordings made on phones or captured by home security cameras.

2. Upon receiving the case, the prosecutor should determine whether there is a protection order in effect. If there is no such order in place and the prosecutor is of the view that this is required, this should be immediately communicated to the police.
3. In all appropriate circumstances, prosecutors should ensure that conditions of bail are properly formulated to promote the victim's safety.

Possible Bail Conditions

- A condition of no contact with the victim by any means, direct or indirect, including contacts through a third party.
- A specific order barring the defendant from the victim's residence, school or place of employment.
- A prohibition on the defendant destroying, selling or disposing of the victim's property.
- Any other conditions to help safeguard the victim.

Dismissals or Reluctant Victims

In the vast majority of the domestic violence matters it has been the experience of the ODPP that victims or virtual complainants (VC's) would appear in Magistrates' Court the day of the accused first appearance and state that they are unwilling to proceed with the matter. (The majority of VC's do not say why they have come to this decision but would express that they have made this decision on their own free will) In some cases VC's would write letters to the Magistrate or to the DPP asking for proceedings to be discontinued since they do not wish to continue. This conduct on the part of a VC immediately precludes the trial from commencing. This is the sole predominant reason why these matters are unable to go forward in the Courts up to conviction.

Once a VC has declared that they do not wish to give evidence the Crown will have a lower realistic prospect of conviction. By Virtue of the 2006 Evidence Act all witnesses are competent and compellable to give evidence. However, a spouse may object to being required to give evidence for the prosecution. The Court may hear the objection and can resolve that the nature and extent of harm outweighs the desirability of having the evidence and thus may not compel the victim to testify. Alternatively, an order can be made to compel the accused to attend the Partnership for Peace Programme. Upon successful completion of the programme, and based on a favourable report with appropriate recommendations, the Crown may, on the direction of the DPP, elect to discontinue the matter by offering no further evidence against the accused.

4. **The VC's need to understand and appreciate that the justice system is there to protect them and this can only be achieved through counseling and education. It is the responsibility of the investigating officer, Social Development or designate to inform a VC that they cannot call the police, make a report, have the accused arrested and then come on the day of the first appearance and say that they do not wish to proceed. VC must be made to understand by the appropriate agencies that they may be charged with a criminal offence of wasteful employment of police time.**

The Court May.....

Explore the possibility of the applicant entering into counseling or therapeutic programme to understand the long term effects of domestic violence and to take responsibility for the decision to stay in abusive relationships.

Explore the possibility of the defendant entering into counseling or a psycho-educational programme for batterers. This could potentially be made a condition for withdrawal of the charges but should be done upon successful completion of such a programme.

Exercise its discretion under section 20 of the 2006 Evidence Act to compel the victim to give evidence against the accused.

- ✓ *The Court may direct that the applicant or both, receive professional counseling or therapy.*
- ✓ *Dismiss the matter for want of prosecution*

Sentencing

5. Counseling or referral to some other psycho- social intervention is one of the dispositions available to the Court. **However, counseling should not be used as an alternative to a fine or custodial sentence, where the nature and gravity of the offence would suggest otherwise.**

6. *Where pursuant to subsection (2) (c) of the Domestic Violence Act 2011 the Court makes an order which includes counseling or therapy, the order shall specify:*
 - a) *The Court receive a written notification from the counselor or therapist of sessions missed by the applicant, the respondent or both, as the case may be without reasonable excuse; and*
 - b) *The date by which the counselor or therapist shall submit a report to the Court in respect of the counseling or therapy.*

7. Couple's counseling, Family Counseling and/or Marriage Counseling should not be encouraged. It should be up to the counselor to recommend joint counseling if he/she assesses this to be safe for the victim.

Protection Orders

8. The **Domestic Violence Act 2011** makes provision for the granting of Protection Orders on an ex parte basis if the court is satisfied that the respondent is committing, or has committed or is likely to engage in conduct that would that would constitute an act of domestic violence (Interim protection order). Where the circumstances warrant, ex parte applications should be filed, with the understanding that an inter partes hearing would be scheduled shortly thereafter. Hearings for an ex parte application should be heard **within two days** of the filing date of the application. Hearing dates for regular applications should be heard within **five days** of the filing date of the application.

9. A protection order issued by the Court pursuant to this Act may prohibit the respondent from:
 - a) Committing any act of domestic violence;

- b) Enlisting the help of any person to commit any act of domestic violence
 - c) Entering the shared household, except that the Court shall only impose this prohibition if it appears to be in the interests of the applicant or any child or dependent;
 - d) Entering a specified part of the shared household;
 - e) Entering the residence of the applicant;
 - f) Entering the place of employment of the applicant;
 - g) Preventing the applicant, any child or dependent who ordinarily resides or has resided in the shared household from entering or remaining in the shared household or a specified part of the shared household;
 - h) Taking possession of, damaging, converting or otherwise dealing with property that the applicant may have an interest in, or which is reasonably used by the applicant as the case may be;
 - i) Approaching the applicant within a specified distance; or committing any other act as specified in the order.
10. A breach of a Protection Order is a criminal offence and should be prosecuted accordingly. A person who commits such an offence is liable:
- a) On a first conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding one year or both;
 - b) On a second or summary conviction, to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year or both;
 - c) On any subsequent summary conviction, to a period of imprisonment not exceeding five years.
11. Where an order contains a direction of the Court that the respondent seek counseling or therapy and, it is brought to the attention of the Court that the respondent has refused or neglected to comply with such a direction and the Court finds that such refusal or neglect was unreasonable, the respondent commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.
12. Once an order of protection is made, a copy of the Order should be made available to the victim and another copy should be filed with the police.

L - Working with other Key Stakeholders

Working with Law Enforcement	Working with Medical Profession	Working with Social Service Providers
<ul style="list-style-type: none"> • Prosecutors and Police Officers should work in consultation on the laying of complaints so as to ensure that the appropriate charges are before the court. • The RVIPF should be aware of Protection Orders granted by the Court. Protection Orders should be filed both at the Family and Juvenile Unit, as well as at the Police Station in the district where the victim resides. • The investigating officers who were assigned to the domestic violence case should remain involved in the legal processing of the case, including having knowledge of all court return dates. Police Officers should assist however possible in facilitating the victim's attendance at required court dates. 	<ul style="list-style-type: none"> • Doctors, nurses or other professionals could be called as a witness, especially if a medical record is to be admitted into evidence. • Medical professionals can also be called as expert witnesses but would have to be qualified as such. 	<ul style="list-style-type: none"> • Victim advocates should be routinely present to assist victims with court attendance. Social Development Department or designate should be contacted for any victim requiring support during any stage of the legal process. • Victim impact statements could assist a court at the stage of sentencing. To the extent that this assistance is required, social workers could be utilized.

DATA COLLECTION PROCEDURES

Data Collection is an essential component of the overall effort to enhance systemic responses to domestic violence. It is difficult to respond to any problem effectively without having an appreciation of the nature and extent of that problem. At an expert working-group meeting on data collection systems for domestic violence, the representative of the ECLAC/CDCC Secretariat specially noted that there have been difficulties in ascertaining the incidence of domestic violence, despite evidence of a growing body of sociological research on the issue. Not surprisingly, she attributed such issues to under-reporting and data collection inadequacies. The availability of data would enable policy makers and other stakeholders to engage in the following:-

- i. Obtain a profile of victims and perpetrators
- ii. Understand the frequency and incidence of D/V
- iii. Identify the groups at risk
- iv. Develop Intervention Programmes
- v. Monitor the effectiveness of violence prevention and intervention activities.

The British Virgin Islands, like other countries in the region, must give due consideration to the implementation of data collection systems, starting with the development of a monitoring and surveillance system targeting reported cases.

The establishment of data and surveillance systems for domestic violence has been a massive undertaking in Trinidad and Tobago and Belize. In these countries, recommendations have already been made pertaining to the definition and development of the methodology and tools proposed in the data collection system for central registries. These tools and methodologies are complex and will not be achieved solely by the introduction of a protocol.

A protocol, on its own, will not remedy the data collection crisis. However it is a vital first step in any effort to ensure that the various sectors are collecting the data which will subsequently have to be fed into a national data- base for processing and analysis.

M - Procedures

1. All sectors, namely health, law enforcement, social service and legal must devise an instrument to record information relating to domestic violence cases. There should be as much consistency in the data capture as possible. This may require the creation of a standardized instrument that is used across all of the stakeholder groups.
2. Such an instrument should be able to capture basic information relating to the characteristics of the incident and outcomes of the intervention. Where suitable, other information such as the characteristics of the perpetrator should also be recorded.
3. Whereas some agencies, such as the police will be able to capture the actual name of the victim, other agencies may not be able to record names because of issues of confidentiality. This is especially relevant in circumstances where the victim has chosen not to report the matter to the police, but has made a disclosure to another service provider.
4. Given the issue of confidentiality, it is important to develop a method of uniquely identifying victims of domestic violence to avoid duplication of incident reports. This may involve, for example, characteristics such as date of occurrence, nature of incident, date of birth, place of residence etc.
5. Each stakeholder group would need to ensure that the data is collected on a routine basis and sent to a central entity to be agreed upon for processing and analysis.
6. Consultation with experts in the area of data management systems should be conducted before any further steps are taken to advance data- collection procedures.

Review and Revision to the Protocol

There are several factors which could trigger the need for review and revision of this protocol. Turnover in positions; changes in programmes and services, as well as amendments to the law or practice can necessitate changes in a protocol that has been working well.

In anticipation of the subsequent need for amendments to the protocol, the following review procedures are recommended:-

- Stakeholders should meet on an annual basis to review the protocol for its overall effectiveness.
- Office of Gender Affairs will assume responsibility for convening the stakeholders' review meetings.
- An assessment of the effectiveness of the protocol will be thoroughly discussed and documented, with a clear indication of the portions of the protocol which seem to be working well, as well as those that are not working as well.
- Any amendments to the protocol will be made after the stakeholders have reached a consensual agreement on the nature and terms of the amendment(s).