



*Victim Response in the  
BVLD Domestic Violence  
'Court Option'*

***PROPOSAL***

(Part 2 of 2)

**July 19, 2010**

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## Proposal Participants

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## PROPOSAL PURPOSE

### **PURPOSE:**

The 'Victim Connections in the BVLD Domestic Violence 'Court Option' Proposal represents a collaborative and comprehensive approach to victim support, to be used in conjunction with the proposed BVLD Domestic Violence 'Court Option' Proposal, as envisioned by the BVLD Domestic Violence Justice Response Steering Committee. The purpose of this proposal is to especially note the points of victim connection within the larger court process. Together these proposals (noted as Part 1 and Part 2) present our vision of a BVLD Domestic Violence Court Option.

An important goal of the proposed model is to save court costs and time by avoiding trials. Other goals, as identified by the BVLD Domestic Violence Justice Response Steering Committee are:

- improve the safety of women and children;
- create and support a community involved response process;
- encourage more disclosures of domestic violence;
- provide for timely intervention including fast tracking of all DVC cases;
- provide a non-adversarial, effective court-based alternative to formal criminal court as a means of responding to domestic violence;
- reduce the high collapse rate for domestic violence charges;
- hold offenders accountable in a meaningful way;
- provide an appropriate sentencing option to offenders under the close supervision of the court and treatment professionals;
- reduce recidivism
- encourage early acceptance of responsibility and early guilty pleas by perpetrators of domestic violence; and
- provide protection, information and support for victims.

The values of the proposed court model, as identified by the BVLD Domestic Violence Justice Response Steering Committee are:

- Integrated — all community resources working together/cooperative/coordinated/collaborative and systemic/big picture/holistic/context
- Safety — we believe that all people have the right to live free from domestic violence
- Respect — - For all people, their communities, history, culture and tradition/and in particular the unique heritage, culture and tradition of Aboriginal People
- Collaboration — We believe that the participants in the Domestic Violence Court process are best served by an inclusive approach.
- Effectiveness — We believe that the Domestic Violence Court process must have positive and measurable results.

## PROPOSAL INTRODUCTION

### INTRODUCTION:

As expressed in the PURPOSE above, this proposal isolates out the points of victim connection from each agency involved in the domestic violence court response vision. Individually, each agency involved in the domestic violence court proposal will 'do more' in the victim response court model, than described in the Victim Response in the Smithers Criminal Justice System protocol. For example, RCMP will proactively give victims of domestic violence a Victim Services card and inform them that a Victim Service worker will be calling them. The Police Based Victim Service worker will proactively call all domestic violence victims to offer support and encourage permission to refer them to Specialized Victim Assistance.

This is different from how Victim Services currently becomes engaged with domestic violence victims where there is a police response. Currently the attending police officer will ask the victim if they would like to be contacted by Victim Services. If they say yes, the officer refers the file to the Police Based Victim Service worker, who then contacts the victim and offers support plus a referral to Specialized Victim Assistance. If they say no, there is no referral to Victim Services.

Another example of 'doing more' is that in our vision, those files that are channeled into the domestic violence court response option through a Guilty Plea will automatically be referred to Community Corrections for a Risk Assessment. Currently Corrections does a Risk Assessment after an Accused person is found Guilty in court – which may be many months after the incident has occurred. In the case of the domestic violence court response option, the Risk Assessment will be conducted weeks after the incident.

In the flowcharts, all items in red represent the enhanced victim response in the domestic violence court model. These are the actions that will occur 'on top' of those that are written in the DV Victim Response in the Smithers Criminal Justice System protocol.

Client confidentiality in the Domestic Violence Court Option Proposal is 'consent based' and is addressed at the point of pleading Guilty and choosing the Option, when the offender will sign an Informed Consent form giving all relevant parties permission to case manage around the file. This may include an RCMP officer, a Crown Counsel, a Probation Officer, Victim Services, an MCF Child Protection worker, a Defense counsel, and the DVC coordinator. If the victim consents to participating in the program they too will sign an Informed Consent form. Monthly case management meetings will include each agency reporting and discussing the status of the file. Each agency involved is required to know their relevant privacy legislation around these issues: FOIPA, PIPA, CFCSA and the federal Privacy Act. Professional and internal policies and procedures may also apply.

Both pieces of our proposal – the 'Victim Response in the BVLD Domestic Violence Court Option' and the 'Charge Approval and Court Process' – form 2 interconnected parts of a whole domestic violence court option. This is not a diversion from the mainstream court process – it is an option within the existing system. Offenders choosing to take responsibility for their actions soon after Charge Approval can apply for the Men's Counseling Program, and if accepted, enter counseling much more quickly than if they waited until being found Guilty in a trial setting. See below for the general flowchart of the Court Process.

## Domestic Violence “Court Option” Flowchart (detailed)

**1 RCMP Arrest and Release** under Protective Conditions with a requirement to “Report to Probation” and “No Contact” and “No Go” conditions confirmed before release OR if held, JJP &/or Judge releases to contain same conditions (minimally). First Appearance 14 days after arrest. Risk Assessment conducted. DVCO information to offender.

- Police Based Victim Services contact ALL DV victims. PBVS refer to Specialized Victim Services with victim consent.
- Statements taken and investigation conducted. Report To Crown Counsel to be submitted ASAP & within 7 days of report.
- UTA/PTA faxed to Probation for intake and monitoring of offender (and confirmation of residence and contact info) within 12 hrs of release.
- Referral to MCF immediately if children involved, within 24 hours if children present but uninvolved.

**2 RCMP** recommend either appropriate or inappropriate for DVCO based on established criteria. **RTCC** including typed statement submitted **within 7 days** of incident to Crown.

**3 Probation** conducts Intake Interview, monitors offender, confirms residence/contact info, contacts victim.

**4 Crown Approves Charges** and determines **appropriate for DVCO**. **1<sup>st</sup> Appearance** – within 14 days of incident – at JP Court. Crown recommends DVCO to offender who reviews disclosure with his Counsel. Offender decides that day or before 2<sup>nd</sup> Appearance date. Offender applies to DVCO Program through DVCO Coordinator. Suitability/Risk Assessment by Counseling Facilitator /Probation. File flagged by JP as probably DVCO.

**5 Crown Approves Charges** and determines **inappropriate for DVCO** and channels file into regular court system. **OR** accused turns down the DVCO option, **OR** the accused pleads Not Guilty.

**6 2<sup>nd</sup> Appearance** – within 14 days after 1<sup>st</sup> appearance – on DVCO day of the week. Approved Application provided to Court. Offender pleads Guilty & signs Information Sharing Consent for DVCO Case Management. (DVCO stamp on outside of file?) UTA varied to reflect DVCO counseling. File referred to DVCO Co-ordinator to track. File adjourned one month to DVC Court day to start program.

**7 All Applications to Vary Protective Conditions** contain “must leave presence upon request” clause. Applications to Vary must have victim input or will not be approved. Smithers VPC protocol in effect.

**8 DVCO Coordinator refers file to the DVCO Case Management team.** Victim Services gives DVCO information to Victim and gets victim consent for Information Sharing for Case Mgmt. Victim may choose to not be involved. MCF are engaged with family when children are involved.

**9 Offender enters open-ended DVCO Counseling Program** (less than 1 month after DV report to RCMP). Offender must meet completion requirements in order to receive ‘credit’ for this program. (incl no Breaches). DV Facilitator connects with victim. Case Management Team meets monthly. Victims encouraged to be engaged with VS. Offender & Case Management team scheduled every month in Court for ongoing monitoring of progress. When counseling program is completed, Counseling Facilitator, in consultation with the Case Management team, will prepare a report for Crown Counsel/Defense before sentencing date.

**10 TRIAL - Acquittal  
OR  
Found Guilty**

**11 Judge SENTENCES**, taking all unique factors of the file into consideration, including reports from the DVCO Case Management Team. Judge has ALL sentencing options open to him/her, on all files. Eg Absolute Discharge, Conditional Discharge, Respectful Relationships Program, Relationship Violence Program, etc. Probation conducts Risk Assessment for offender sentenced to Probation.

**12 Post Sentence Monitoring on DVCO files** – For other than Absolute Discharge, the Case Management team will continue to hold the file until the sentence is complete. Probation Officer to check in regularly with offender and victim. DVCO coordinator gathers all DVCO statistics for Case Management purposes of assessing successfulness of the program, and rates of recidivism, etc. For Absolute Discharge the Facilitator will connect with offender and victim once after 2 months for final file report.

## **Guiding Document (Highlights):**

### **Domestic Violence Victim Response in the Smithers Criminal Justice System protocol – June 2010**

In June 2010 the 'Domestic Violence Victim Response in the Smithers Criminal Justice System Protocol' was completed and signed off by Smithers RCMP, Crown Counsel, Community Corrections, Ministry of Children and Family Development, Police-Based Victim Services, and Specialized Victim Services. The coordinated policies and procedures reflected in it were effective immediately.

Included in the protocol is a Statement of Principle which includes such points as:

- Issues of safety and risk are our highest priorities when working with victims. Rapid intervention in domestic violence incidents is key to victim safety.
- We believe that victim participation is critical to providing a coordinated response to domestic violence.
- Through collaboration we can minimize the silo effect of our agency mandates. The decisions that we make while working with victims and offenders will be thoughtful, and will have taken into account the at-times competing interests of the agencies involved, as well as the victim's and offender's unique context. We will seek to find the 'highest' result for the individuals involved, their families, and the goals of our agencies.
- As a unified group we can effect change that will benefit victims of domestic violence, and our community as a whole.

Included in the protocol is a Statement of Purpose which includes such points as:

- To establish 'best practices' in how we work together, and in the agreements that we make, in a coordinated effort to reduce incidents of domestic violence and increase individual safety.
- To identify gaps and barriers, and purposefully and creatively seek to bridge them.
- To provide comprehensive and coordinated services to all victims of, and those accused of, domestic violence.
- To increase the safety of adult and child victims by having comprehensive risk assessments done that include interviews with the victim and other relevant people.

A noted highlight from the DV Victim Response in the Smithers Criminal Justice System protocol is the Victim Notifications Chart, which outlines various criminal justice system processes and outcomes, and the agency that will contact victims with information that potentially affects their safety.

The complete protocol is available from the BVLVD Domestic Violence Justice Response Steering Committee, or from the Specialized Victim Assistance Coordinator.

# Proposal Coordinated Policies & Procedures

## RCMP

### Victim contact points only – items in red are proposed

#### RCMP Response to Domestic Violence Victim

- \* Respond to injuries and ensure safety of victims and children
- \* Transport to medical attention if required
- \* Take photos of injuries
- \* **KGB statement on all DV files**
- \* **Give them Victim Services card/brochure and tell them VS will call them. Refer all DV files to VS.**
- \* If children were present, determine extent and history, and notify MCF
- \* Get Consent for Release of Medical Information form signed
- \* Risk assessment through victim interview, etc.
- \* Give victims a card with Officer name & number

#### RCMP Release of Accused

- \* Contact victim in person or by phone and advise of release of the accused
- \* Advise of Protective Conditions & file # and offer copy to victim
- \* Explain breaches & reporting them to victim.

#### RCMP Release of Accused after JJP Hearing

- \* Contact victim in person or by phone and advise of release of the accused
- \* Advise of Protective Conditions & file # & offer copy to victim
- \* Explain breaches & reporting

**RCMP National Operational Manual** states that in cases of domestic violence the primary purpose of swift police intervention is to protect victims. The onus is on the RCMP to recommend charges. Violence in Relationships (VIR – formerly VAWIR) is the policy document of the Ministry of Public Safety and Solicitor General.

#### Other RCMP Contacts with Domestic Violence Victims:

- \* **During delivery of subpoenas will include list of Victim Services in Hazelton, Smithers, Houston and Burns Lake and outlying areas**
- \* Officer follow up contact after Domestic Violence incident
- \* Further investigation requested by Crown Counsel
- \* Victim reports a Breach of Protective Conditions
- \* Victim contacts officer with questions or offers more information
- \* **NCO Officer participates in Case Management of approved DVCO files**
- \* When charges are not recommended by RCMP (deemed a domestic dispute) VIR check occurs every month for six months.
- \* When charges not approved by Crown Counsel, file returns to RCMP for monthly VIR checks for six months.



# Ministry of Children and Family Development

## Victim Contact points only – items in red are proposed

The focus is on the safety of the children. The work is often done with the parents.

**Victim Contact** (the parent victim with children) - Report may be received from anyone in the community.  
***GUILTY PLEA and DV Court Option in effect – when children are involved MCF automatically becomes a member of the Case Management Team.***

### **Assessment:**

- History of family involvement
- Age & vulnerability of children
- Ensure they have a safe place
- Ensure mother is safe
- Meet with parent
- Offer referrals and options

No further action – close file

### **Investigation:**

#### **Can victim keep children safe?**

- Interview victim and children
- Talk to RCMP re joint investigation
- Talk to school, hospital, doctor, etc using Section 96 authority
- Notify Band if appropriate
- Would they like support through the investigation?

No further action – refer to supports like Transition House & Victim Services

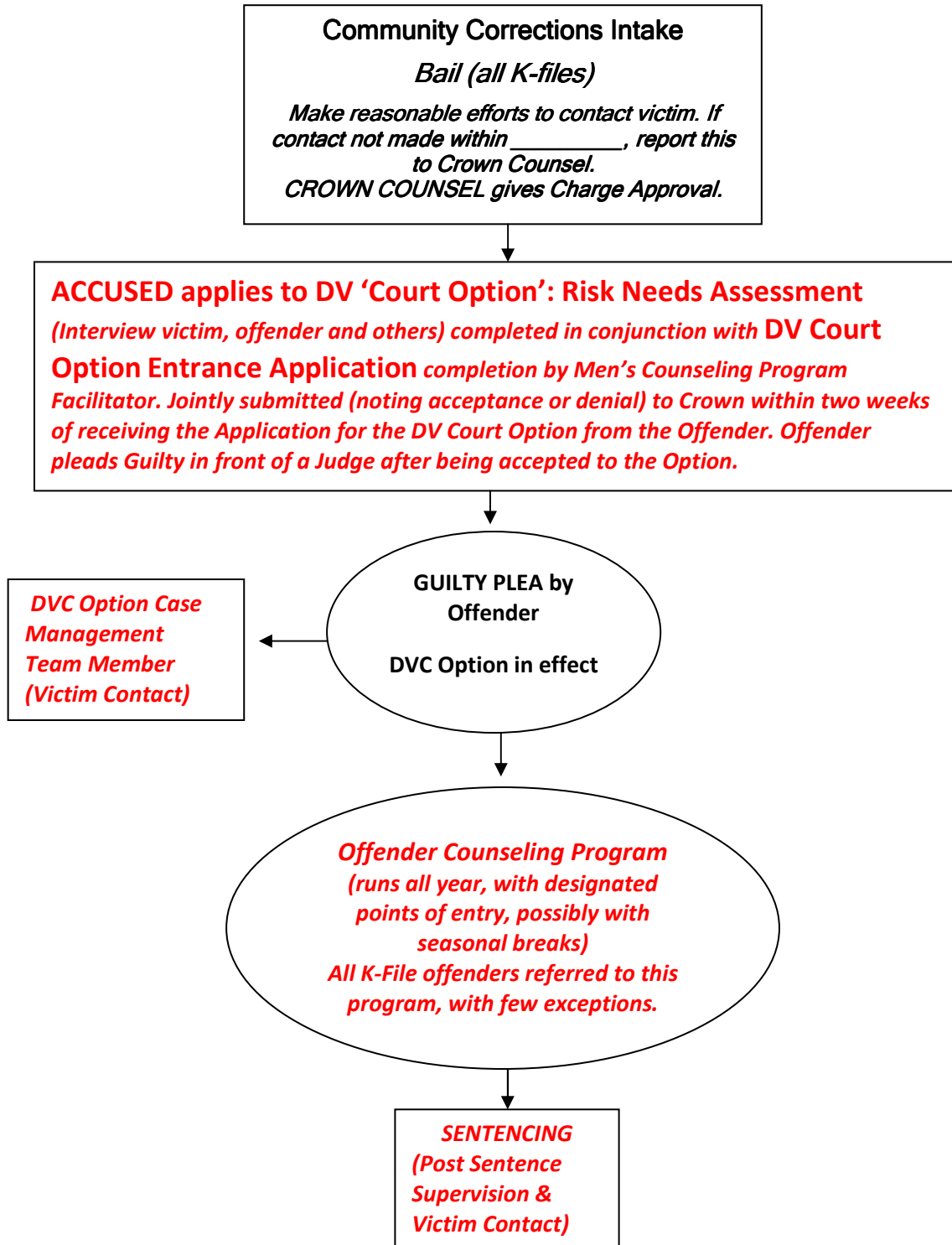
Children can be kept safe; Offer referrals

#### **Children and/or Victim parent cannot be kept safe:**

- Social worker engages with family to make a plan
- Report findings to the RCMP for consideration in their investigation
- Children may be removed from parent's care, or with the parent's consent placed with an alternate care provider
- Identify risks including domestic violence
- Case management with services and safety plan
- Reduce risks so children can be returned to their family

## Community Corrections

Victim contact points in the DVCR – items in red are proposed



## **Crown Counsel**

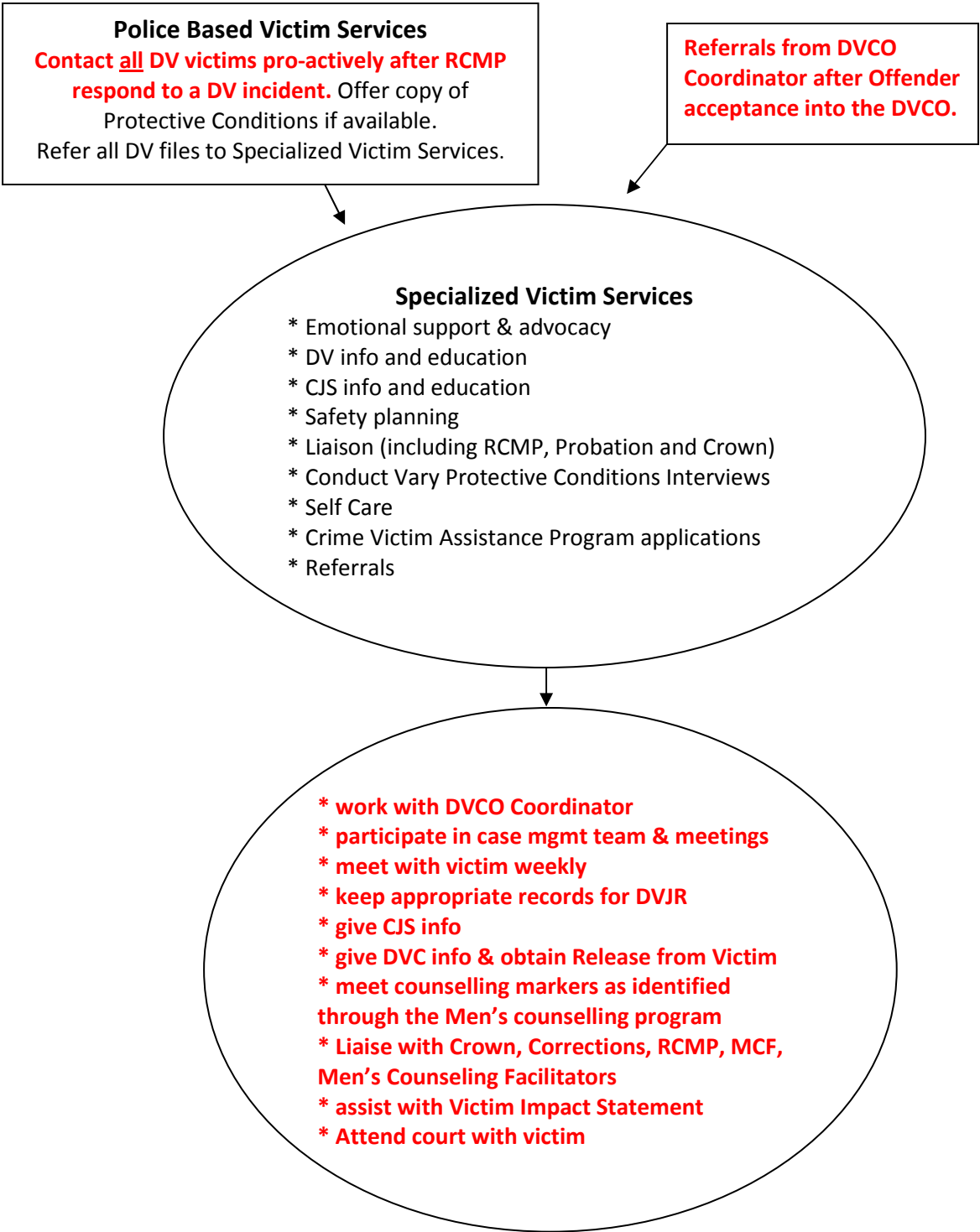
### **Victim Contact Points only – items in red are proposed**

*In the Domestic Violence Justice Response Option, if the process is running smoothly, the Crown Counsel's office will have almost no points of contact with the victim, EXCEPT for sending out (and receiving back) Victim Impact Statements, which are usually delivered to the victim by the RCMP plus contact with the victim during an Application to Vary Conditions to ask them to contact Victim Services for an interview. Crown Counsel's office may contact the victim for other reasons if necessary.*

*If at any point, the file becomes ineligible or inappropriate for the Domestic Violence Court option, the file will be channeled into the regular trial process, and all of the regular trial process connections will occur.*

*A Crown Counsel will be a member of the Case Management team, which will meet monthly to discuss each file currently in the program. The Case Management team will consist of an RCMP member, a Corrections officer, a Counseling Program facilitator, a Victim Assistance Worker, a Crown Counsel, a Defense Counsel, an MCFD Child Protection social worker (if children are involved) and the DV Court Option Coordinator. Through this collaborative approach, the Crown Counsel has a 'victim connection.'*

**Victim Services**  
**items in red are proposed**



## **PROPOSAL SUMMARY**

The Proposal Coordinated Policies and Procedures in this document illustrate (in red) an enhanced victim response in relation to the existing DV Victim Response in the Smithers Criminal Justice System Protocol dated June 2010.

Engaging victims in the criminal justice system has many challenges, for many reasons. The philosophy in the Domestic Violence Court Option model is to 'invite and encourage' victim participation at many points in the process, and through every agency in the partnership – RCMP, Probation, Crown, Judiciary, and Victim Services. Victims related to the DVCO files may choose to, or choose not to, participate with the program and with Victim Services. They also may choose to 'opt out' of participation at any time. This will not affect the Offender's acceptance into the program.

The Domestic Violence 'Court Option' offers a non-adversarial, therapeutic court-based alternative to formal criminal court trials as a means of responding to domestic violence. We would hope that this encourages offenders to take responsibility and embrace the quick intervention and support, and would also encourage victims to participate. The close oversight of the files will contribute to victim safety and support and overall protection. This may encourage more disclosures of domestic violence from victims, and reduce the high collapse rate for domestic violence charges. It also will save court time and costs by avoiding lengthy trials.

Every effort is made to address the victim's needs and concerns while the offender is participating in the treatment program. Safety considerations are given the highest priority. The Domestic Violence Court Option encourages the victim to be heard at all stages of the process.

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