

# WHATCOM COUNTY COORDINATED RESPONSE PROTOCOL



Domestic Violence,  
Children, and Child Maltreatment



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## **Additional Contributors**

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# INTRODUCTION

## What is the Whatcom County Coordinated Response Protocol?

The protocol is a document intended to provide guidance and procedural direction for law enforcement agencies, courts, Child Protective Services (CPS) workers and service providers when responding to domestic violence in relationships where there are children, and the children may be subject to maltreatment. The goal is to ensure that all agencies or authorities responding to or working on such a case share appropriate information, make informed decisions, and act with a coordinated effort to maximize safety for victims and children while holding abusers accountable. It is also intended to be updated and improved over time as it is implemented, with an evaluation component to determine if the processes identified in the protocol are effective or in need of further development.

## Why has this protocol been created?

The protocol has been developed as part of a statewide effort begun under the auspices of Washington State Supreme Court Justice Bobbe Bridge, Washington State Children's Administration, Washington State Coalition Against Domestic Violence, Washington State CASA, the Washington State Attorney General and the State Office for Public Defense. It was recognized that the lack of a coordinated effort often led to holding victims of domestic violence accountable rather than the abusers, failing to provide safety for families, and a tendency to separate children from a non-offending parent. A leadership network was created to design and finalize a template for a statewide protocol addressing cases where domestic violence and CPS involvement with a family coincide.

After the creation of a statewide template for designing a protocol, a method was needed to create and implement a functional set of processes locally. To do so, a regional implementation leadership group was formed. Each Department of Social and Health Services\ Children's Administration (DSHS/CA) region has been led by a judicial officer in that region with the charge to create and implement a local protocol. In Region 3, which encompasses Whatcom, Skagit, Island, San Juan and portions of Snohomish County, the leadership role has been filled by Judge Charles Snyder of the Whatcom County Superior Court.

In Whatcom County the effort was led by Superior Court Judge Charles Snyder, Kathleen Marshall and Karen Burke of Domestic Violence & Sexual Assault Services (DVSAS). Representatives from Whatcom County Sheriff's Office, Bellingham Police Department, the Whatcom County Prosecutor's Office, the Whatcom County Public Defender's office, the Attorney General's Office, Superior and District Courts, Lummi Tribal Court, Whatcom County Juvenile Court, DSHS/CA, the Commission Against Domestic Violence, Northwest Justice Project and many service providers have met over a period of nearly two years to develop and write this document.

The goal of this group has been to determine how each participant can share information and work in conjunction with the others to offer a coordinated and consistent response in such cases. The group has sought common ground and worked toward practical solutions in order to better serve our community. The protocol is also a prototype for other counties or communities in Region 3 to adapt and implement in their local jurisdictions.

### **What does this protocol do?**

The protocol gives each agency or institution working in this area information on the best practices for handling cases involving both domestic violence and CPS involvement. It also provides direction on where additional information can be gathered or who to contact in other agencies when a case requires action. It is intended to be a living document that can be updated and changed as needs arise and to be used daily, rather than placed on a shelf. The various chapters address participants in the system and give guidance for appropriate action. These chapters provide assistance in coordination of cases and information sharing in areas of screening, assessment, safety planning and provision of services. There will also be a mechanism for review of the protocol and oversight of its implementation, as well as outcome measurements to gauge its success.

### **Why is this document important?**

The agencies that participated in the development of this document agree to implement this protocol as a guide to their practice in this area. To the extent that it is followed, it is the hope of all who have helped create it that this document will improve the official response to cases involving domestic violence and child maltreatment, that families will experience an increased level of safety, children will be able to remain with supportive and protective parents, and that there will be an enhanced capacity to hold abusers accountable for their violence.

[**NOTE:** Throughout this protocol, victims are referred to using feminine and abusers, masculine terms. While there are indeed female abusers and male victims, the vast majority of victims are female and abusers, male. The gender-specific language has been adopted to avoid the cumbersome task – for writer and reader alike – of continually referencing both abusers and victims as “he/she” in this document.]

## MISSION STATEMENT and GUIDING PRINCIPLES

The mission of the Washington State DSHS Child Protective Services-Domestic Violence-Court (CPS/DV/Court) Protocol Work Committee is to establish consistent procedures throughout the legal and social service systems that will respond to domestic violence in relationships where there are children and serve to reduce its prevalence over time. CPS/DV/Court protocol measures will strengthen individualized support and protection for victims of domestic violence, ensure the safety and well-being of children affected by domestic violence, maintain family integrity to the greatest extent possible, consider cultural strengths and resources, and promote accountability and effective treatment for abusers.

The following principles shall guide the development and implementation of policies, procedures and practice:

1. Presence of or exposure to domestic violence shall not be considered child maltreatment per se. However, comprehensive identification of domestic violence and a thorough assessment to determine whether or not there are any risks posed to the child are critical in reducing risk and ensuring safety for children.
2. Interventions shall be based on an understanding of the dynamics of domestic violence and the ways in which the behaviors and tactics of the domestic violence abuser can compromise the non-offending parent's ability to provide a safe and nurturing environment for their children.
3. The abuser shall be held accountable for the domestic violence and any subsequent risk posed by such behavior. Interventions should direct the abuser to reduce these behaviors. The non-offending parent shall not be held responsible for the abuser's violence or for ending that violent behavior.
4. The safety of abused children is often linked to the safety of their non-offending parent. By working with adult victims of domestic violence to increase their safety, autonomy and emotional well being, the well-being and safety of their children is enhanced.
5. Every effort should be made to keep the children in the care of the adult, non-offending parent.
6. Families deserve an individualized response that allows them to participate in the development of a service plan.
7. Attending to the family's cultural strengths and resources is paramount as is monitoring whether services are being provided in a culturally responsive manner.
8. Effective treatment and support services for families experiencing domestic violence where children are present are essential, and necessary efforts should be made to develop adequate funding sufficient to meet community need.

For additional information please see [Appendix A: Context is Everything: Domestic Violence in The Real World](#) – an article that discusses the complexities involved in working effectively with victims of domestic violence and their children.

# AGENCY ROLES AND RESPONSIBILITIES

## I. ROLE OF CHILD PROTECTIVE SERVICES

### A. Goal of DSHS/Child Protective Services (CPS)

The goal of CPS is to protect children from child abuse and/or neglect while preserving the family's integrity and cultural and ethnic identity to the maximum extent possible, consistent with the safety and permanency needs of the children. CPS is a program available on a 24-hour basis in all geographic areas of Washington State.

### B. Service Description – CPS

1. The purposes of CPS are to:

- a. Receive and assess referrals from the community alleging abuse or neglect.
- b. Assess risk of future abuse or neglect to children.
- c. Investigate referrals alleging abuse or neglect or the risk of abuse or neglect:
  - Determine the existence of abuse or neglect.
  - Assess risk of abuse or neglect to children by performing a comprehensive assessment, using the risk assessment model.
- d. Provide early intervention information and referral services to advise parents about services to strengthen families and prevent serious or continuing abuse or neglect.
- e. Develop culturally responsive case plans which:
  - Prevent or remedy abuse or neglect in the shortest reasonable time.
  - Prevent or reduce the need for out-of-home placement.
  - Provide a safe and permanent home for a child.

### C. Ongoing Case Management

DSHS/CA will remain involved as long as necessary to complete its investigation and to ensure the safety of children. This may entail out of home placement of the children by a voluntary placement agreement with the parents or the filing of a dependency petition by DSHS/CA in Juvenile Court. In cases where there is a protective non-offending parent, DSHS/CA may close the case once protective measures have been assured through criminal proceedings, family law department action, orders of protection, or other means.

## D. Service Outcomes

1. The DSHS/CA social worker shall achieve one of three outcomes for investigations:
  - a. A written voluntary service agreement with the family signed by the participants;
  - b. A dependency action filed by juvenile court;
  - c. Closure of the case.

## E. DSHS/CA Intake Sufficiency Screening Questions

The sufficiency screen determines if a referral is screened in for investigation or not. There must be a “yes” answer to the first three questions and/or question four, for the case to be eligible for investigation:

1. Is there sufficient identifying information to locate the child?
2. Is the alleged abuser a caretaker of the child or acting as a legal custodian, or is the parent negligent in protecting the child from further child abuse and/or neglect?
3. Is there a specific allegation of child abuse and/or neglect that meets the legal or the Washington Administrative Code definition?
4. Is there a risk factor or multiple risk factors that place the child in danger of imminent harm?

## F. Case Disposition Decisions Made by Intake

1. **Information Only** (No CPS investigation): Referrals that fail to pass the DSHS/CA sufficiency screen and do not meet the criteria for a mandatory report to law enforcement will not be investigated by either DSHS/CA or law enforcement, but will be recorded by DSHS for information purposes only.
2. **Low Risk for Child Abuse or Neglect**: Low risk families do not receive CPS investigation but may be referred to the Alternate Response System for community services or the family may receive a telephone or letter contact only.
3. **Accepted for Investigation**: The referral meets sufficiency screening criteria and is accepted for CPS investigation.

## G. CPS Referrals to Law Enforcement for Mandatory Criminal Referrals

Referrals that pass the DSHS/CA sufficiency screen which also fall within the criteria for a mandatory report to law enforcement will be investigated by both DSHS and law enforcement. RCW 26.44.030(4) states: “The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency.”

## H. Other Referral Decisions by Intake

1. **Non-criminal Referral (Investigated by CPS only):** Referrals that pass the DSHS/CA sufficiency screen but do not fall within criteria for a mandatory report to law enforcement (e.g., non-criminal neglect) will be investigated by CPS only.
2. **Third Party Offender Referrals (Investigated by law enforcement only):** Referrals that meet the criteria for a mandatory report to law enforcement, where the abuser is a third party offender by definition, will be investigated by law enforcement unless the parent or guardian is failing to protect the child from the abuser, in which case a parallel DSHS/CA referral will be generated. Third party offender referrals reported to DSHS/CA Intake shall be reported to law enforcement.
3. **Incident Report Referrals:** Referrals that include reports of child abuse or neglect within licensed facilities as well as those subject to licensing (e.g., unlicensed day care center) will be investigated by DSHS/CA and/or the Division of Licensing Resources (DLR) unless the allegation falls within the criteria for a mandatory report to law enforcement, in which case both DSHS/CA and law enforcement will investigate.

## II. ROLE OF THE ATTORNEY GENERAL'S OFFICE

The Attorney General's Office is the legal representative of DSHS/CA. In and related to dependency proceedings, it provides advice and consultation as well as representation in juvenile court dependency proceedings and in administrative forums for licensed facility investigations.

The Attorney General's Office will coordinate with and notify law enforcement and the Prosecutor's Office of any action taken or decision made by the juvenile court that affects the criminal investigation. Information that comes to the attention of the Attorney General's Office may be shared with law enforcement pursuant to RCW 26.44.

The Assistant Attorney's General may be available to participate in interdisciplinary staffings regarding common cases.

## III. ROLE OF DOMESTIC VIOLENCE ADVOCACY PROGRAMS

### A. **Descriptions: Community-Based and System-Based Domestic Violence Advocates**

1. **System-Based Domestic Violence Advocates:** System-based domestic violence advocates, sometimes referred to as prosecution-based victim witness staff, help victims navigate the criminal legal system process. Although they listen to, hear out and may speak for the victim, these advocates ultimately work within a criminal legal system. Confidentiality cannot be assured if the victim discloses information pertinent to the case. Therefore clarifying the differing roles of community-based versus systems-based advocates is important for both the victim and for CPS.

2. **Community-Based Domestic Violence Advocates:** Community-based domestic violence advocates are “true” advocates in that their role is to support victims and advocate for their needs. Communication is confidential unless reporting is mandatory. Community-based advocates also provide services that are available beyond the brief time that a case stays in the criminal legal system. They are equipped to provide ongoing support around many aspects of a victim’s life, such as housing, unemployment, and post-separation legal issues, as well as direct advocacy. Non profit agencies offering community-based domestic violence advocacy services in Whatcom County have a well-established cooperative relationship with law enforcement, probation, court system, DSHS/CA, including CPS, and social service agencies to mutually promote and enhance victim safety and abuser accountability. In Whatcom County a variety of services are offered to domestic violence victims and their children, in recognition of the continuum of victim needs. These services include advocacy-based counseling, emergency shelter care, safety planning, crisis intervention, information and referral, support groups, housing advocacy, legal advocacy, and transitional living. They also operate a 24-hour domestic violence hotline. See [Appendix B](#) for a list of agencies that provide services to victims of domestic violence.

## **B. Role of the Advocate**

In the ideal world, both system-based and community-based advocates should be made available to victims as both concentrate on victim and children safety, provide information and make referrals. Each approach to victim support has its own role and strengths and it is important that victims are aware of and can make use of both. Washington State WAC 284-554-005 delineates the advocate’s responsibilities, role and confidentiality. Domestic violence Advocates are mandated reporters of child abuse under RCW 26.44.030. Each agency has specific protocols for record keeping and confidential communication. Please refer to the [Information Sharing chapter](#) of this protocol for additional details.

## **C. Role of DV Advocates for Families Involved with CPS**

In Whatcom County, DVSAS offers services to DV victims that are working with CPS, to assist the non-offending parent with legal advocacy and on going services as they navigate the CPS system.

## **D. CPS, Law Enforcement and DV Shelter Programs**

CPS social workers are informed of where children are residing when there is an investigation or open case. The roles of CPS and Law Enforcement should be clearly delineated when a child is removed from a parent residing in a shelter or transitional living facility. Womenscare Shelter has a protocol regarding CPS and law enforcement, which includes contacting the Shelter Director and addressing the need to minimize the trauma to the child, the parent and other residents. See [Appendix C](#) for detailed policies and procedures.

## **IV. ROLE OF LAW ENFORCEMENT**

### **A. Overview**

Law enforcement's role is to determine if a crime occurred, to identify and arrest criminal suspects, to protect victims and their children, and to gather all pertinent facts and information in order to prepare detailed reports for presentation to the Prosecutor's Office. Law enforcement is also required to notify CPS whenever a child is a suspected victim of child abuse or neglect. Law enforcement must also assess the need for removal of a child, and if removal is required, determine placement with notice to and/or consultation with CPS. Law enforcement, as part of a coordinated community response, should provide referral information and/or direct assistance to victims, witnesses, and other requesting parties to facilitate the delivery of advocacy or other appropriate social services.

### **B. 9-1-1 DV response calls to Law Enforcement**

Patrol responds to calls and investigates. Patrol makes a determination whether a crime has been or is being committed and whether law enforcement action is needed. The following are guidelines for responding to DV scenes where children are present:

1. Respond to complaint, in-progress call or third party report;
2. Determine jurisdiction and authority;
3. Determine if children are present or directly involved;
4. Determine identity and status of all parties present and/or involved (witness, victim, suspect, referring/reporting party, including informants/officials/mandated reporters as source of information);
5. Check for and determine existence of any protective order or civil order for any of the parties involved;
6. Determine if interview(s) of child(ren) are necessary and the extent of interview(s) as well as need for forensic interview;
7. Determine if arrest(s) will be made or if probable cause exists for future arrest of any parent/ custodian;
8. Determine if arrest of abuser/suspect stabilizes situation and/or if further investigation of situation is warranted and necessary steps for protection of child(ren) and adult victim(s);
9. Determine if protective custody action or immediate involvement of CPS is required;
10. Provide victim assistance/referral and social services information, including access to protective orders.

### C. Procedures and Coordination between Law Enforcement, Prosecutor and CPS

1. In all cases, (no arrest/arrest) investigation reports where child welfare issues exist are distributed to CPS and to the County Prosecutor's Office.
2. As in all DV/Maltreatment responses where a crime has occurred, a detailed investigative report, and appropriate follow up reports are prepared and submitted, including the documentation and preservation of evidence, statements, photographs, and recordings.
3. Whatcom County law enforcement agencies follow investigation and reporting guidelines as laid out in the Whatcom County Child Abuse Investigation Protocol ([see Appendix D](#)), as well as the applicable sections of the Revised Code of Washington:
  - a. Law Enforcement and CPS are entitled to access all relevant records in the possession of other mandated reporters and their employees. RCW 26.44.030(1).
  - b. Law Enforcement and CPS must share information regarding child abuse and neglect. RCW 26.44.030(5)]. Copies of the law enforcement case report and all relevant related records are provided to CPS per RCW 26.44.030(11).
  - c. Law enforcement conducts interviews, gathers evidence, determines whether there is a need for removal, and if removal is required, determines placement of child in partnership with CPS. Police may interview the person making the report. RCW 26.44.030(14).
  - d. Law Enforcement and CPS may photograph the child. RCW 26.44.050.
  - e. Law Enforcement and CPS are allowed by law to interview children outside the presence of their parents and without parental knowledge. RCW 26.44.030(10).
  - f. Cases must be forwarded to the appropriate prosecuting attorney's office for review, whether charges are requested or not. RCW 26.44.030(5).

### V. ROLES AND RESPONSIBILITIES OF THE WHATCOM COUNTY PROSECUTOR'S OFFICE

The County Prosecutor's Office has three divisions responsible for criminal prosecution. The District Court Division prosecutes all misdemeanor offenses occurring in the unincorporated areas of Whatcom County. The Felony Division handles all felony offenses occurring within the County. The Juvenile Division handles all misdemeanor and felony offenses involving juvenile respondents as defined in RCW Chapter 13, who have not been previously declined by the Court into adult Superior Court.

The Whatcom County Prosecutor's Office has written guidelines regarding its approach to domestic violence and child abuse cases. Prosecutors are guided by the written guidelines contained in the Whatcom County Prosecutor's Office District Court Domestic Violence Protocol as well as the Whatcom County Child Abuse Investigation Protocol.

## Criminal Investigation

Criminal investigations are the responsibility of the respective law enforcement agencies in Whatcom County. The Prosecutor's Office handles cases in which law enforcement officers in the field have filed criminal citations, as well as those cases referred to the Prosecutor's Office for review of charges. The Prosecutor's Office does not typically investigate or initiate criminal charges without an initial law enforcement investigation. Cases received from other jurisdictions, citizen complaints and other officials will be referred to the appropriate law enforcement agency. If the Prosecutor's Office receives a report of an allegation of child abuse, notification of the law enforcement agency where the abuse occurred will be made as soon as practical and typically no later than seventy-two (72) hours after the report.

In cases of possible child abuse, CPS, law enforcement and prosecution have different obligations. Guidelines, as set out in the Whatcom County Abuse Investigation Protocol, as summarized hereafter, enhance cooperation and reduce the possibility of confusion. Proper coordination during the investigation of child abuse reduces the number of interviews with the child victim.

Law enforcement is designated as the lead agency in investigations involving child abuse. Each participating agency provides requested or required assistance during the investigation. Where a joint investigation is involved, CPS should participate in the initial investigation with law enforcement as resources permit. Joint investigations require a higher degree of coordination, cooperation, understanding and flexibility. To minimize interviews, investigations are typically conducted jointly by law enforcement and CPS whenever possible.

## Charging

In making charging decisions with respect to criminal investigations, Whatcom County Prosecutor's Office follows the guidelines as set out in RCW 9.94A.411 for adult offenders, and RCW 13.40.077 for juvenile respondents. Additionally, it is the Office's philosophy in charging domestic violence crimes that prosecutors file charges which fairly and objectively reflect the types and seriousness of the criminal conduct involved after a complete review of the available evidence.

## Case Management

### Domestic Violence Specialist

In all domestic violence cases, the Domestic Violence Specialist (DVS) is responsible for a number of the Office's intake procedures. In District Court cases these include confirming a prosecutor has been assigned, making an initial assessment of the victim's safety, obtaining a criminal history of the defendant, completing the DV Case Checklist, and making preliminary contact with the victim. The DVS is also responsible for making follow-up contact with the victim which includes safety planning and providing referrals to appropriate community DV resources and further victim support during the pending criminal case.

When a child younger than 16 years of age is the victim of, or a significant witness to an incident of domestic violence, the Sexual Assault Specialist (SAS) is notified as soon as practical. The SAS is used in these cases due to the SAS's advanced degree and experience with child victims in both a forensic and counseling setting. In these cases the SAS and the DVS coordinate assessments of child victims and witnesses with the goal of providing or arranging appropriate resources. Child witnesses are afforded additional preparation including information about their role in court, the questions that may be asked and their obligation to speak the truth. They will also be shown the courtroom and the witness stand, so the surroundings will be familiar if they testify.

### **Prosecutors**

Cases will be assigned to prosecutors in their respective divisions. Prosecutors will review and file appropriate charges as outlined above. At a defendant's first appearance a prosecutor is prepared to make bail recommendations using the guidelines set out by the applicable court rules (CrRLJ 3.2, CrR 3.2, JuCR 7.3). No contact orders with victims and witnesses will typically be sought at first appearance, unless it is clearly inappropriate to do so.

Weekly meetings of the Domestic Violence Team will be available to prosecutors handling domestic violence cases. This team meets each Wednesday for one hour to staff DV cases. The Domestic Violence Team consists of advocate agency representatives, CPS representatives, prosecutors, detectives, and victim-witness specialists.

If appropriate, prosecutors will utilize the DVS to aid in victim and witness interviews. For cases involving child victims or witnesses, Prosecutors may also utilize the expertise of the SAS and/or community-based resources.

### **Disposition and Sentencing Philosophy**

In domestic violence cases, dispositions are sought from the court that: hold the abuser accountable for criminal conduct; recognize the financial impact of this conduct on the community; provide reliable opportunities for rehabilitation and protection of the community. Prior to a disposition hearing, the prosecutor's office attempts to contact victims and inform them of the disposition and their right to be heard. The DVS will help determine what form of support and referral to advocacy agencies would be useful to the victim.

## VI. ROLE OF SUPERIOR COURT JUDGE/COMMISSIONER

### **A. Civil Domestic Violence Protection Order Application**

**Where CPS involvement is known to exist or is alleged the court should:**

1. Determine if domestic violence has occurred pursuant to statutory definition. If it does not, the court must dismiss the petition.
2. If the court finds that domestic violence has occurred, the court must make the following decisions:
  - a. Does a dependency case exist or are there orders in another case type;
  - b. If there is an active dependency, has the dependency court approved concurrent jurisdiction;
  - c. If there is no concurrent jurisdiction the court must defer to the current dependency order regarding contact of the children with the parents;
  - d. If there is concurrent jurisdiction the court must fashion an order to assure the safety of the children, taking into account other orders, parenting plan, etc.

### **B. Dissolution Proceeding**

**Where CPS involvement is known to exist or is alleged and where domestic violence is also alleged the court should:**

1. Determine the extent of CPS involvement and if there is a dependency action filed;
2. If there is a dependency action, determine if concurrent jurisdiction has been granted by juvenile court;
3. If there is concurrent jurisdiction, make a decision based on statutory factors and the facts of the case, but the ruling is held in abeyance until the dependency dismissed;
4. If there is no concurrent jurisdiction, the court can take no action with regard to the children's contact with either parent.

### **C. Criminal Cases Charging Domestic Violence**

**Where CPS involvement is known to exist or is alleged the court should:**

1. Prior to finding that a crime has been committed, set pre-trial release conditions to be consistent with any voluntary placement agreement or dependency orders. The court must be made aware of such conditions at the bail hearing(s);
2. After a conviction, consider all the provisions of voluntary placement agreements or dependency actions at the time of sentencing to assess and set terms of probation and/or supervision.

## VII. ROLE OF DISTRICT COURT

### **A. Civil Domestic Violence Protection Order Application**

Where CPS involvement is known to exist or is alleged, the case will be transferred to Superior Court.

### **B. Criminal Cases Charging Domestic Violence**

Where CPS involvement is known to exist or is alleged the court should:

1. Prior to finding that a crime has been committed strive to set pre-trial release conditions consistent with any voluntary placement agreement or dependency orders; however, the court must be made aware of such conditions at bail hearing(s);
2. After a conviction, the court must be made aware of all provisions of voluntary placement agreements or dependency actions at the time of sentencing in order to assess and set appropriate terms of probation and/or supervision.

## VIII.ROLE OF LUMMI TRIBAL COURT

### **A. Civil Proceedings**

In any civil case (including dissolutions, parentage, and protection orders) where there is an allegation that a child is a witness or victim of domestic violence, the court will first determine if there is an active dependency in the Lummi Tribal Court or a state court.

If there is an active dependency, the court must determine if it has jurisdiction. In most cases, if there is an open dependency in another jurisdiction, the Lummi Tribal Court will generally not have jurisdiction to issue orders regarding the care of the child. In this situation, the Lummi Tribal Court will notify the Nation through the Reservation Attorney. The Child Welfare Attorney will notify any jurisdiction with an open dependency of the allegations filed in the Lummi Tribal Court.

If the court has the authority to issue orders relating to the child, the Lummi Tribal Court will notify the Child Welfare Attorney of the pending civil proceeding. The role of the Child Welfare Attorney is to ensure that the court remains consistent with current dependency orders and to provide input regarding any necessary changes to court orders affecting the child. The court's policy is to stay consistent with valid dependency orders unless there are compelling reasons otherwise.

If there is no active dependency, the court policy will be to notify the Nation through the Child Welfare Attorney by forwarding a copy of any petition alleging that a child is a witness or victim of domestic violence. The Child Welfare Attorney will then notify CPS and Lummi Children's Services for further investigation.

## **B. Criminal Proceedings**

In all criminal cases where a child is a witness or victim of domestic violence the court will make an inquiry at arraignment regarding whether CPS has been notified. The prosecutor's role is to determine if the officer has made a referral. If not, the prosecutor will direct law enforcement to forward the report to CPS. In addition, under the Lummi Code of Laws, 8.06.030, the prosecutor can charge the abuser of domestic violence with a separate crime if a child is a witness to domestic violence.

The prosecutor will also notify the Nation through the Child Welfare Attorney. The Child Welfare Attorney will advise the court of any active dependency actions. The court will consult the Child Welfare Attorney before any criminal order modifies a dependency order.

## **IX. OTHER TRIBAL COURTS**

Please be aware that every tribal court has its own procedures for addressing domestic violence and child maltreatment cases. The reader is urged to contact the individual courts for further information.

## **X. ROLE OF DISTRICT COURT PROBATION**

District Court Probation staff supervises court ordered probation conditions, both pre- and post-sentence, that hold offenders accountable and impact their behavior in the community. Court ordered conditions of probation include, but are not limited to, treatment for domestic violence, alcohol and drug abuse, mental health, and sexual deviancy. In addition, probation will monitor collection of restitution when ordered by the court.

District Court Probation Officers are trained to be aware of situations that may involve domestic violence, and children. If there is a concern for the immediate safety of a child, the local law enforcement agency is notified. All other concerns are referred to CPS.

Probation Officers are trained to recognize and identify the dynamics of domestic violence and make appropriate referrals to agencies that can assist the defendant in dealing with life style that brought them into the criminal justice system.

District Court Probation provides adult probation services for offenders charged with misdemeanors in the Whatcom County District Court and some Municipal Courts that contract with Whatcom County, currently Bellingham, Lynden, Everson, Sumas, and Blaine.

## XI. ROLE OF THE GUARDIAN AD LITEM (GAL)

A GAL can be involved in dependency cases and in other civil proceedings. GALs are appointed by the court and their roles & responsibilities may include:

1. To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interest of the child;
2. To monitor all court orders for compliance and bring to the court's attention any change in circumstances that may require a modification to the court's order;
3. To report to the court information on the legal status of and to advocate for a child's membership in any Indian tribe or band;
4. To make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all parties;
5. To represent and advocate for the best interest of the child;
6. To advocate for permanency for the child and to work cooperatively with all agencies and participating parties;
7. In cases where domestic violence is identified within the family, to make referral to the appropriate agency for victim support and to work in a cooperative manner between agencies with exchange of information in order to advocate for the child's best interest.

## XII. ROLE OF THE BELLINGHAM CITY ATTORNEY'S OFFICE – CRIMINAL DIVISION

The Criminal Division of the Bellingham City Attorney's Office, or "the City Prosecutor's Office," is responsible for prosecuting misdemeanor crimes that occur within the city limits of the City of Bellingham. The City Prosecutor's Office becomes involved in a criminal prosecution when a criminal citation or complaint is issued or law enforcement refers a case for charging. The City Prosecutor's Office oversees the prosecution of the case from its inception and continues until the case is closed. A case is not closed until there is a conviction or a dismissal. During the prosecution of the case, the role of the City Prosecutor's Office includes providing information and support to victims of crimes.

A misdemeanor criminal prosecution in the Bellingham Municipal Court is initiated by the issuance of a criminal citation by either law enforcement or a city prosecutor. All investigatory work that supports a criminal prosecution is performed by law enforcement. The City Prosecutor's Office's role is to review all cases referred and filed by law enforcement and pursue the charges depending on the law enforcement investigation, and statutory guidelines (RCW 9.94A.411).

The prosecution begins when the citation or complaint is filed with the Municipal Court. The City Prosecutor's Office adheres to the standards and guidelines for charging outlined in RCW 9.94A.411: "Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised."

The court is solely responsible for imposing a sentence after a conviction. When a defendant is convicted of a crime, the role of the City Prosecutor's Office is to make a sentencing recommendation to the court. In the recommendation, the Prosecutor informs the court of any plea agreement with the defense, and the defendant's criminal history.

In the context of a domestic violence case, the role of the City Prosecutor's Office includes asking the court to impose No Contact Orders, pursuant to RCW 10.99. The request for No Contact Orders includes both pretrial and post-conviction scenarios. The City Prosecutor's Office also assists victims in scheduling hearings regarding the rescission of court ordered No Contact Orders when requested by the victim.

The City Prosecutor's Office is also responsible for providing information and support to victims of crime, which includes domestic violence cases. Efforts are made to ensure victims of crime know their rights, pursuant to RCW 7.69. Further, the City Prosecutor's Office will recommend social services to victims of crime when appropriate.

### XIII. ROLE OF JUVENILE COURT ADMINISTRATION

Whatcom County Juvenile Court Administration has jurisdiction over juveniles in civil matters and in offender proceedings that have not been removed to Superior Court. Offender proceedings include both referrals where criminal cases have been filed in court, or where the prosecuting attorney's office has referred for diversion. Civil proceedings include dependency, At-Risk Youth, Child In Need of Services, and truancy. Whatcom County Juvenile Court Administration oversees both probation and detention services as mandated under Title 13 of the Revised Code of Washington.

Domestic violence cases referred to Juvenile Court, where legal sufficiency is found, are either filed in court, or diverted. Consistent with statute all youth arrested on domestic violence cases are accepted into the detention center, pending a detention hearing. A no contact provision may be ordered as part of a release agreement or disposition.

Juvenile Court Administration works with the Prosecuting Attorney's office when notification to a victim of domestic violence is required upon the abusers release from local confinement. All Juvenile Court Administration probation officers and detention officers are mandatory reporters to law enforcement or the Department of Social and Health Services for child abuse and neglect issues consistent with RCW 26.44.030. All reports of the alleged abuse or neglect are made at the first possible opportunity.

#### XIV. ROLE OF WHATCOM COUNTY PUBLIC DEFENDER

The Public Defender's Office is only involved with DV/CPS cases if CPS has filed a Dependency, the parent or child over twelve has requested an attorney, and the Department has identified domestic violence as an issue in the household.

The Public Defender's Office also represents children in At-Risk Youth, Children In Need of Services, and truancy contempt proceedings, all of which may contain allegations of domestic violence. In criminal cases of domestic violence the Public Defender's Office represents people charged with the domestic violence related crimes.

Defense attorneys are not involved in any initial screening process. If a person becomes a client, and the Department requires that the client participate in an assessment to determine if treatment is necessary, an attorney can assist that client in getting set up with the agencies that provide services under contract with the Department. If a client requests assistance in finding additional services, the attorney and the Social Services coordinator can assist with referrals.

## COORDINATION BETWEEN AGENCIES

In Whatcom County there are two multi-disciplinary meetings wherein confidential information about families active to CPS, law enforcement, and/or the courts can be shared: the Child Protection Team and the Domestic Violence Team Meetings.

### I. WASHINGTON STATE DCFS – CHILD PROTECTION TEAMS (CPT)

As set forth by RCW 74.14B.030, written in 1987 and followed by Executive order 95-04, the DCFS is required to establish and maintain multidisciplinary teams consisting of “at least four persons...from professions which provide services to abused and neglected children and/or the parents of such children. The teams shall be available for consultation on all cases where a risk exists of serious harm to the child and where there is dispute over whether out-of-home placement is appropriate.”

The Whatcom County DCFS has two Child Protection Teams that each meet twice a month at their Ellis Street office. Membership consists of representatives from law enforcement, probation, the medical and mental health professions, the public schools, substance abuse treatment providers, and domestic violence advocacy organizations. DCFS cases being staffed at these meetings are those wherein:

1. The risk assessment is in the “moderately high” or “high” range and the child is age six years or younger;
2. The case plan is to return the child home from out-of-home placement or to dismiss an in-home dependency where the child was never placed out of the home when the child is age six or younger and any risk assessment has resulted in a risk level of moderately high or high risk;
3. Serious professional disagreement exists about a risk of death or serious injury;
4. The cases are opened on the basis of “imminent harm”;
5. The cases are complex and consultation will help improve outcomes for children.

CPT members are required to be fingerprinted, submit to a criminal records check, and sign a confidentiality pledge prior to participating on these teams.

## II. COUNTY DOMESTIC VIOLENCE TEAM MEETINGS

The Domestic Violence Team consists of advocacy agency representatives, CPS, prosecutors, detectives, and victim-witness specialists. The Team meets every Wednesday for one hour to staff DV cases. These meetings allow for information sharing between the attendees and provide a forum to staff cases. Generally, prosecutors will provide a current list of pending DV trials and law enforcement will provide a list of DV arrests from the previous week. The team members help each other locate victims and witnesses, analyze possible issues related to investigations and trials, and coordinate services. Child advocates and CPS representatives create a safeguard to ensure children who are victims or witnesses of domestic violence are not forgotten. CPS representatives gain information about families they already have current cases with as well as learn of other families where an investigation may be necessary. Community-based domestic violence advocates attend and participate, but do not share information about clients without signed releases.

# INFORMATION SHARING

## PART I: LAWS GOVERNING DISCLOSURE OF CONFIDENTIAL INFORMATION

### I. CONSIDERATIONS FOR INFORMATION SHARING

#### A. Introduction

The sharing or disclosure of personal information is a complex area governed by a number of different state, tribal, and federal laws. The laws provide varying levels of confidentiality and rules for disclosure of information relating to DSHS, medical, mental health, chemical dependency, sexual assault and domestic violence related records. Due to the complexity, situations are best viewed on a case-by-case basis.

These materials are intended to address information sharing within the context of domestic violence and child maltreatment cases and thus, do not provide a detailed analysis of all potentially applicable laws. It is important to know that laws exist which protect the confidentiality of DV records and make communications between a DV victim and a community based DV advocate privileged. This section will provide a summary of these particular laws and their application.

#### B. Safe Disclosure of Information

The safety of the DV victim and children should be considered whenever information must be shared or disclosed. Inadvertent disclosure may raise the risk of harm. The following guidelines may help to reduce potential harm to DV victims and their children.

1. Any information in the record or file pertaining to a confidential address or contact information of a DV victim should be redacted, which means blacked out or removed. Social security numbers, driver's license identification, passport numbers and personal financial information should also be redacted.
2. When information must be shared, as in a court proceeding, DV victims must be notified so that they may plan for their safety.
3. Safety of victims and children must be considered when planning case transfers.
4. Most involved agencies will have their own confidentiality and information sharing policies. These should be consulted prior to disclosing information.
5. In some circumstances, a court order may be required before information is disclosed.

#### C. Authorization to Release Information

If the client signs an authorization to release information, the person or agency receiving the information should be clearly identified in the release. The written authorization should also specify what records or information will be disclosed and how long the authorization is effective (e.g. 90 days).

## D. Mandated Reporting

1. **Introduction:** Throughout the justice, law enforcement, child welfare, social service, medical, mental health and educational systems, individuals in certain positions are required by state law to report suspected child abuse and neglect. Under RCW 26.44.020(13), exposure to DV that is perpetrated against someone other than the child does not in and of itself constitute child maltreatment or negligent treatment. The legislative intent was to prevent agencies and the court from the precipitous removal of children from their homes by following principles of supporting DV victim safety and abuser accountability.
2. **Mandated Reporting Laws:** The purpose of mandated reporting laws is to protect abused or neglected children and provide services to prevent future abuse.
  - a. All providers in this guideline are mandated to report any incidents or suspected incidents of child abuse or neglect. This includes employees of Department of Social and Health Services, Division of Children and Family Services, Assistant Attorney General's Office, domestic violence advocacy programs, law enforcement, health care, prosecutor's office, and probation.
  - b. By definition, mandated reporters include "any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or the department as provided in RCW 26.44.040. RCW 26.44.030(1)(a).

It is important to note that "Social Service Counselor" is broadly defined by statute and includes "anyone engaged in a professional capacity during the regular course of employment in encouraging or permitting the health, welfare, support or education of children or providing social services to adults of families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity or as an employee or agent of any public or private organization or institution." RCW 26.44.020(21).
  - c. Failure to report suspected child abuse and/or neglect is a gross misdemeanor and can be a violation of professional licensure. RCW 26.44.080
  - d. If an agency or provider has any question regarding their status as a mandated reporter, they can and should contact CPS for clarification.
  - e. This mandated reporting requirement is one of the exceptions to privilege and confidentiality of information sharing.

## II. CONFIDENTIALITY AND PRIVILEGE OVERVIEW

### A. Confidentiality Laws

Confidentiality generally refers to the legal and/or ethical duty to keep information or a communication private. Confidentiality laws protect information from being disclosed to third parties. The main purpose of confidentiality laws is to protect an individual's privacy. In some circumstances, however, confidential information may be disclosed to others without the consent of the client or patient. These exceptions to confidentiality laws include:

1. Mandated reporting of abuse and/or neglect of a child aged from birth to eighteen;
2. Mandated reporting of abuse and/or neglect of a vulnerable adult;
3. A court order;
4. "Duty to Warn" (generally referring to danger to self or others) pursuant to case law and/or policy.

### B. Privileged Communication Laws

1. Privilege is the right to withhold testimony or records in a legal proceeding. Privilege generally protects against the compelled disclosure in a legal proceeding of information provided by the individual holding the privilege to another person with a specific role. Examples of privilege include physician-patient, and attorney-client communications. To be privileged, these communications must be between the two identified persons. The attorney-client privilege only applies to communications between the attorney and his or her client.
2. Confidentiality and privilege generally differ in the scope of what is covered and the exceptions. Also, privilege applies only in legal proceedings because privilege means that a covered person cannot be forced to testify in such proceedings about the privileged communications. Information may be both privileged and confidential.
3. In addition to privileges protected by statute and common law (this means court decisions), federal law provides a privilege under the Fifth Amendment to the United States Constitution that protects an individual from being compelled to incriminate him or herself. Under this amendment, a person who has been charged with a crime or who is under criminal investigation has an absolute right to decline to provide information, to testify or to be interviewed about the facts surrounding the events.

### III. LAWS PERTAINING TO CONFIDENTIALITY OF RECORDS AND INFORMATION

If an agency, program or individual is governed by confidentiality laws, care should be taken to ensure that client or patient information is not discussed in public or any location where the conversation could be overheard by someone who is not entitled to have access to the information. Steps should be taken in file-management to ensure that the confidential information is not available to anyone who is not entitled to access.

#### **A. Confidentiality of Domestic Violence Program Information and Records**

1. “Domestic Violence Program” means an agency that provides shelter, advocacy or counseling for DV victims in a supportive environment. RCW 70.123 provides for the confidentiality of information held by a DV program and its agents, employees or volunteers. Information about a recipient of shelter, advocacy or counseling services may not be disclosed without the written authorization of the recipient. If disclosure is necessary because of the mandatory reporting laws regarding child abuse or neglect, the program is to make reasonable efforts to notify the recipient and if personally identifying information is to be disclosed, take steps to protect the privacy and safety of the persons affected by the disclosure of information.
2. Under RCW 70.123.075, client records maintained by a DV program are not subject to discovery in any judicial proceeding unless there is a written pretrial motion for the records, accompanied by an explanation of the need for the records. If sufficient reason is provided to do so, the court will then perform an in camera (in chambers) review of the records. The court will weigh the relevance of the records against the victim’s privacy interest in the confidentiality of the records in determining which, if any, records will be disclosed.
3. The community based DV advocate must explain to the adult victim his or her confidentiality rights as well as the limits to those rights and explain the role of a DV advocate. The victim should be informed that information shared with the DV advocate will not be shared with the abuser. The advocate should also explain the duty to notify CPS if there are concerns about child abuse or neglect.
4. If information must be shared to assist a DV victim to obtain additional services, the community based DV advocates should be prepared to assist the victim to make sure that the disclosed information is communicated accurately and safely. Steps should be taken to ensure that any information that is shared is protected from further disclosure.

#### **B. Address Confidentiality Program (ACP)**

If a person has registered for the address confidentiality program under RCW 49.24, the secretary of state may not make any information in their records available except to law enforcement, by a court order, or to verify the participation of a specific program participant. For further information about the address confidentiality program and the limitations of this program, see [Services chapter, page 55](#).

### C. Division of Children and Family Services Records

1. DCFS records include Child Protective Services, Child Welfare Services and Family Reconciliation Services records.
2. Generally, DSHS/CA records are confidential and not subject to disclosure under RCW 13.50.100; RCW 26.44 and RCW 74.04.060. There are several exceptions.
3. **RCW 13.50.** This statute provides that information about a juvenile may be shared with other juvenile justice or care agencies specifically defined by statute if the other agency is pursuing an investigation or case about the juvenile or is assigned responsibility to supervise the juvenile. However, only information which is needed for the receiving agency to carry out its statutory responsibilities to the child is to be provided. Parents, the child, the parents' and children's dependency attorneys and the child's dependency guardian ad litem are also entitled to information held by DSHS/CA.
4. **RCW 13.34.105.** Under this statute, the child's court appointed dependency guardian ad litem (GAL) is entitled to review information contained in the DSHS/CA record. The GAL is not entitled however, to review confidential information such as social security numbers and privileged communication between DSHS/CA and its attorneys. Under RCW 13.40.100, the GAL may share information obtained with other participants in the juvenile justice or care system.
5. **RCW 26.44.** Under this statute, DSHS/CA may share case information to perform case planning and provide appropriate services to the family. Only information that is relevant and necessary for these purposes may be provided. RCW 26.44.030(7) and RCW 26.44.030(11) provide DSHS/CA with access to all relevant records of the child in the possession of mandated reporters and their employees.

### D. Health Care Records

1. Health care records are generally considered confidential and disclosure is governed by the Health Care Information Act, RCW 70.02. Generally, patient health information may not be disclosed without a valid authorization signed by the patient or his or her legally authorized representative, subject to certain exceptions contained in statute. Applicable exceptions contained in RCW 70.02.050(2) include the following:
  - a. Patient health information may be disclosed when necessary to determine provider compliance with state and federal laws and licensing/certification requirements;
  - b. Patient health information may be disclosed to address public health concerns;
  - c. Patient health information may be disclosed for specific law enforcement purposes, such as suspected child abuse, gunshot wounds, information necessary to avoid imminent danger, or information required by a court order;

- d. Patient health information may be disclosed to coroners and medical examiners conducting death investigations;
    - e. Patient health information may be disclosed in judicial and administrative proceedings pursuant to a lawfully issued subpoena that complies with notice requirements set forth in the RCW 70.02.
2. A patient's health information may be shared only with those individuals who have a specific need to know the information and proper identification. Only the minimum amount of information necessary to satisfy the intended purpose of the request will be disclosed.
3. The 1996 Health Insurance Portability and Accountability Act (HIPAA) legislated health insurance reform, to improve portability and accountability. HIPAA also has legislated administrative simplification in order to encourage electronic information sharing in a safe and confidential manner. The administrative simplification legislation provides standards for:
  - a. Healthcare electronic data interchange (EDI);
  - b. Security of health information;
  - c. Privacy of health information.
4. HIPAA standards are enforced by the federal Office for Civil Rights (OCR) based on patient complaints. Non-compliance or purposeful violation of the standards can result in substantial penalties.
5. Under RCW 26.09.225, unless a court has ordered something different, parents are entitled to "full and equal access" to their child's medical records. Under other state laws, a child who is age 12 or older must consent before parents can access these records.

## IV. PRIVILEGED COMMUNICATIONS LAW

### **A. Community Based Domestic Violence Advocate Privilege**

1. RCW 5.60.060(8), adopted in 2006, makes the communication between a community-based DV advocate and the victim privileged and not subject to compulsory disclosure. This means that a community-based DV advocate cannot be questioned or be made to testify in court about any communication between the DV advocate and the victim unless the DV victim first consents. This testimonial privilege does not apply to communications between DV victims and individuals who perform an investigative or prosecutorial function such as systems-based DV advocates. For that reason, a systems-based DV advocate should explain the limitations of confidentiality to the DV victim, and should consider making a referral to community-based DV advocates.

2. Under the statute, “domestic violence advocate” is defined to mean an employee or supervised volunteer from a community-based DV program or human services program that provides information, advocacy, counseling, crisis intervention, emergency shelter, or support to victims of DV and who is not employed by, or under the direct supervision of a law enforcement agency, a prosecutor’s office, or the child protective services section of DSHS. A DV advocate must fall within this definition for communications between the DV victim and the advocate to be privileged. Even if the DV advocate does fall within the definition, there is an important exception to the privilege where a DV advocate must report known or suspected child abuse or neglect.

### **B. Attorney-Client Privilege**

Under RCW 5.60.060(2)(a), unless the client consents, an attorney cannot be examined as to any communication made by his or her client, or the advice he or she has given to the client during the course of the professional employment.

### **C. Physician-Patient Privilege**

Under RCW 5.60.060(4), unless the patient consents, a physician cannot be compelled to testify as to any information acquired in treating the patient in any judicial proceeding. There is an important exception to this privilege, where the physician may testify regarding a child’s injury, neglect or sexual abuse. The privilege is also deemed waived (this means lost) if the patient files a personal injury or wrongful death action. Privileges similar to the physician-patient privilege are provided for information acquired by treating psychologists and counselors under other state laws.

### **D. Husband-Wife Privilege**

Under RCW 5.60.060(1) neither spouse can be examined for or against the other spouse, without the consent of the other spouse, as to communications made by one spouse to the other during the marriage. There are a number of exceptions, however, to this privilege. It does not apply to civil actions or proceedings by one spouse against the other. It also does not apply to criminal actions in which the other spouse is the victim of the communicating spouse or criminal actions in which a child is the victim and the communicating spouse is the parent or guardian of the child.

### **E. Sexual Assault Advocate Privilege**

1. Under RCW 5.60.060(7), a sexual assault advocate may not, without the consent of the victim, be examined as to any communication made by the victim to the sexual assault advocate.

2. For purposes of the privilege, “sexual assault advocate” is defined to mean the employee or volunteer from a rape crisis center, victim assistance unit, program, or association that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.
3. The sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose that information is likely to result in a clear, imminent risk of serious physical injury to or death of the victim or another person.

## V. INFORMATION SHARING IN THE CONTEXT OF COURT PROCEEDINGS

### **A. Juvenile Court Proceedings and the Role of the Dependency Guardian Ad Litem (GAL)**

1. Court records in a juvenile dependency proceeding are confidential and sealed (not accessible by the public). RCW 13.50.100
2. The role of the child’s dependency GAL is to investigate, collect relevant information about the child and report factual information regarding the best interests of the child to the court. RCW 13.35.105(1).
3. The dependency GAL has access to information about the child, which includes the records of any agency, hospital, health care provider or mental health provider. RCW 13.34.105(3)

### **B. Family Law Proceedings and the Role of Family Court**

1. **With the exception of parentage actions, all court records in family law proceedings are open public records.**

Under RCW 26.12.080, in a family court proceeding, the court may seal the file or any part of it to protect the privacy of the parties when the court determines that publication would be harmful to the children or contrary to public policy. In order to seal documents in a court file, the party seeking to seal those documents must comply with specific rules adopted by the Supreme Court of the State of Washington. Under General Rule 15, compelling reasons must be provided in order for documents and/or a court file to be sealed. General Rule 22 has been amended effective July 1, 2006 to allow certain CPS, psychological, medical, mental health and substance abuse evaluations to be sealed in accordance with the procedures set out in the rule.

2. **RCW 26.09.220.** The report prepared by a Family Court investigator or GAL must be shared with the parties' attorneys and with parties who are not represented by counsel. The investigator's file of underlying information must also be made available to the parties and/or their attorneys.
3. **RCW 26.12.180.** All information, records, and reports obtained or created by a GAL or Family Court investigator in a family court proceeding is discoverable. This means that the parties to the legal action (usually the parents) may obtain information from the GAL or Family Court investigator. The GAL or investigator may also share information with experts or staff that he or she has retained as necessary to perform the duties of his/her position. However, the GAL or investigator must not release private or confidential information to a non-party unless there is a court order.

### C. Subpoenas and Court Orders Requiring Disclosure of Information

1. A subpoena is a legal document signed by an attorney, notary public, court clerk or judge which requires that the person to whom it is directed to appear in court for a hearing or trial or at a designated place to provide testimony. To enforce a subpoena (this means to compel a person's presence) the subpoena must first be personally served on the person. Sending a subpoena in the mail or by fax is not considered effective service.
2. A subpoena duces tecum is a legal document that directs the recipient to appear at a specified place and time and to bring records or documents with them. This type of subpoena can also be issued with a "Notice of Deposition."
3. If a subpoena is issued with a "Notice of Deposition" it means that an attorney wants to ask the recipient questions under oath before trial. The notice will state the date, time and place where the examination will occur.
4. Subpoenas should not be ignored, especially those directing the recipient to appear for a trial or a court hearing. If a subpoena requires that a recipient appear in court, and the recipient does not want to appear, the recipient must follow specific legal procedures within specific time frames, such as successfully seeking to have the subpoena quashed.
5. Attorneys often issue subpoenas to obtain agency information, medical records, mental health records, and educational records. State and federal laws restricting access to confidential and privileged information should be consulted prior to providing such information.
6. Each agency should develop procedures and protocol for responding to subpoenas.

7. In some circumstances, a court order is required to obtain the release of records:
  - a. **DV Program Record:** Under RCW 70.123.075, a person or agency who wants to use client records maintained by a DV program in a court proceeding must file a written motion with the court which includes specific reasons why discovery is requested. The court will then review the records in camera (i.e., in chambers) to determine whether any portion of the record is relevant and whether the victim's privacy rights outweigh the disclosure of the records. The court may order the release of all, part, or none of the records. A DV program is to make reasonable attempts to provide notice to the recipient affected by the disclosure of information. If personally identifying information is to be disclosed, the program is to take steps to protect the privacy and safety of the persons affected by the disclosure of information. This statutory procedure also applies to sexual assault advocate program records.
  - b. **DSHS/CA Record:** If someone other than a parent/legal guardian, a dependency attorney or a dependency GAL seeks to obtain a copy of the DSHS/CA records, a court order is needed first. The same procedure described above must be followed.
  - c. If information is released pursuant to a court order, it is best to include in a court order a prohibition against any further disclosure, a requirement that the parties use the information only in the proceeding in which it was released, and a direction to otherwise seal the records from public viewing.

In other circumstances, such as attempts to gain access to medical records under RCW 70.02, the party seeking the information is required to give notice to the patient. The patient is then responsible for seeking a court order prohibiting disclosure of that information.

## **PART II: POLICY RECOMMENDATIONS FOR PARTICIPATING AGENCIES — CREATING AN EFFECTIVE INFORMATION SHARING POLICY**

It is recommended that all participating agencies review their internal policies and protocols to ensure that the collection, storage, and exchange of confidential information meets legal and ethical standards, and provides optimal attention to victim/child safety and abuser accountability. Towards that end the guidelines below are provided.

### **I. GENERAL MAXIMS**

1. Ensure adherence to policies regarding the sharing of certain information that enhances the safety of victims and their children.
2. As much as possible, place control over the sharing of information in the victim's hands.
3. Ensure that unlawful/dangerous behavior on the part of the abuser is shared with all who have a need to know, including the victim as appropriate.
4. Adhere to all laws and regulations that address disclosure of confidential information.

### **II. INTRA-AGENCY GUIDELINES**

Develop and/or modify agency protocols for disclosing information with or without permission, to reflect safety needs of victim/children. Considerations should include the following:

1. Define the agency's role in service provision and identify what information is necessary to fulfill that role;
2. Identify the limits of confidentiality and how those limits are conveyed to the victim;
3. Obtain authorization to disclose information;
4. Develop authorization forms to release information;
5. Establish who explains address confidentiality;
6. Report only the information the agency has permission to disclose;
7. Define when reporting is mandated and establish a process for making a CPS report;
8. Define when, how and to whom, information about the offender will be shared;
9. Establish documentation procedures including:
  - a. What observations to document;
  - b. What other information should be documented and why;
  - c. How to document observations. Documentation should use objective terms and avoid subjective statements;
  - d. How to protect confidential information contained in the record such as addresses or other contact information.

### **III. INTERAGENCY GUIDELINES**

#### **A. Develop Interagency Protocols/MOUs**

Considerations should include the following:

1. Determine what circumstances will require interagency information sharing;
2. Ensure privacy of the information received and protect against inappropriate further disclosure;
3. Identify the process for requesting and releasing information;
4. Identify agency staff that will implement the protocol and provide for staff training needs;
5. Identify how the implementation of the protocol will be monitored.

#### **B. Disclosure**

Identify a person(s) /position(s) in the agency responsible for disclosure:

1. Designate an agency contact person(s)/position(s);
2. Identify the person(s)/position(s) with the authority to release information;
3. Identify the person(s)/position(s) responsible for documenting the disclosure. The documentation should include what was released and to whom;
4. Identify when, how and if the victim will be notified of information disclosure.

# COURT COORDINATION & IMPROVEMENT

## I. INTRODUCTION

Cases involving domestic violence and possible child abuse or neglect may be heard in many different courts spanning various jurisdictions. Currently there is no common data system that allows judicial officers in the various courts easy access to the court records in the other courts. The statewide JABS system is available to judicial officers but may not contain all the data that would be needed by an individual judge or commissioner as a case appears before them. Not all courts have computer access for the judge on the bench or in chambers. As a result, a judge or commissioner may be making decisions that affect the parties without knowledge of other proceedings, orders, or participants, such as CPS.

In court a judicial officer must make decisions based on the information and evidence provided in court on the record. It is permissible for a judge or commissioner to consult databases such as JABS during a hearing as long as they make it known to the parties that they have done so, what they have seen, and give any affected party a chance to respond to the information so obtained, Evidence Rule (ER) 1101(c)(4). The primary source for information comes either from the parties or the attorneys appearing in court, or through witnesses in a contested proceeding.

In order for the judicial officer to have reliable and useful information it is essential that the attorneys or parties be able to furnish that information in court. Parties often do not have access to the necessary information, or may not be aware of its importance. Courts should make it possible for all attorneys appearing in court to know what is important to the judge or commissioner, and should expect that the attorneys will present that information in the proper manner. Judicial officers should know of all proceedings involving the parties that may have an impact on the nature of the court's decision, and should also be aware of the questions to ask of counsel. Judicial officers should also be willing to adjourn or continue hearings as needed to obtain the necessary information without delaying the proceedings more than absolutely necessary. One component of determining what information to have is knowing what to ask, and judicial officers should have a ready reference on the bench and in chambers to consult. They should also be trained regarding what information is needed, even if it comes from other jurisdictions or is related to outside agencies not involved in the case immediately before the judge.

It is also important for judges and commissioners to recognize safety issues in their courtrooms and with the persons appearing before them. Court procedures should allow for security to be a primary concern at all times, and courts should tailor their activities to allow for appropriate security while doing the necessary work of the court, such as providing copies of court orders or other process.

## II. BEST PRACTICES

### **A. Courtroom Security**

The following are best practices guidelines for courts in Whatcom County. There may be limitations upon the abilities of the courts to comply with these recommendations; however, these are important best practices for courtroom security.

1. The courts should have an independent assessment (by a group outside the court) for safety issues to assist them to understand security issues at their court.
2. The courts should have weapons screening and/or metal detectors at the entrances.
3. The court should be set up so the alleged abusers can exit separately from alleged victims in domestic violence cases.
4. There should be established procedures for emergency exits from the courtrooms and who is to respond in an emergency. This would include having a known protocol identifying which police department is responsible for responding to emergencies. The Court should conduct periodic practice drills to ensure staff is trained on these procedures.
5. The courts should establish separate areas so alleged abusers sit in a different area than alleged victims in domestic violence cases.
6. The courts should have conference rooms for alleged victims to occupy before domestic violence hearings.
7. Armed security officers should be in the courtrooms during hearings on domestic violence issues.
8. There should be separate viewing rooms for offenders and victims for proceedings held by closed circuit TV, and these viewing rooms should not be adjacent to each other.

### **B. Obtaining Pertinent Information**

1. All courts hearing civil or criminal cases in which there is evidence of domestic violence and children are involved, should endeavor to obtain all pertinent information about the family in order to maximize victim/child safety and abuser accountability. This includes the judicial officers, prosecuting attorneys, defense attorneys, probation officers, victim advocates, and others who appear in court.
2. A checklist should be used to assist all parties of record to be fully informed, to enable the court to make knowledgeable decisions with victim safety/abuser accountability in mind. **A proposed guideline showing all the information that should be sought by judicial officers is found in [Appendix E](#).**

3. Attorneys practicing in all courts in which cases that involve domestic violence also involve children, or in courts where child abuse and neglect issues are at issue and where domestic violence exists, should be prepared to present all relevant information to the court by reviewing the items on the checklist and seeking information to address each pertinent matter where possible.
4. Judicial officers should be prepared to continue a hearing if necessary for the minimum period of time needed to obtain the information that is available regarding issues on the checklist. They should also provide for more frequent reviews if necessary as information is developed during a pending case.
5. Judicial officers should take responsibility to insure that attorneys practicing in their courts provide the necessary information, are aware of the checklist and the issues which the court must decide.
6. Judicial officers in the various jurisdictions should communicate with each other regarding issues that arise when their respective jurisdictions do not adequately share pertinent information and should be willing to examine, and if necessary, change their procedures to improve the flow of information between the courts.
7. Judicial officers should engage in regular training and education to insure their ability to access available databases (JABS, JIS, etc.). Judges and Commissioners should take a leadership role in obtaining the necessary hardware, software and other technology needed to make that access a reality.

# INTERVENTIONS

## I. SCREENING FOR DV AND CHILD ABUSE

Child abuse is not uncommon in families where there is domestic violence. For some participating agencies, domestic violence will be the identified initial problem but not child abuse; the opposite is true for other participating agencies. These families are better served when all participating agencies work together to enable the community to assist the family in a more comprehensive way. Domestic violence advocates are available in the community to assist with safety planning and to provide general information on the dynamics of domestic violence.

### A. Overview

1. DV often is an underreported crime, and most acts of DV are not reported to professionals in any formal way. Moreover, since DV creates safety, power, and control issues, when DV is not identified it diminishes our ability to provide effective and safe responses to families. If DV agencies, law enforcement, DCFS, and court responders are to achieve their goals of protecting and supporting DV victims and their children, DV screening should be a routinely administered with each family.
2. Screening for DV (and assessing of DV) should only be instituted as part of a larger DV initiative among all entities which includes training to build knowledge and skill development, collaboration among responding entities, and the development of proper procedures and policies. Without this careful review of current knowledge and patterns of practice as well as policies and procedural guidelines, providers might misuse information about DV screening and inadvertently increase the danger to DV victims and their children. Screening and responding to DV are most meaningful when adequate policies, procedures and services are in place.<sup>1</sup>
3. DV screening is an effective way to detect DV behaviors. For those who do disclose DV, screening questions are also asked to identify who is the adult DV victim and who is the DV abuser. It is imperative that DV screening questions be asked without causing further risk of harm to DV victims and their children. When asking DV screening questions, each family member should be interviewed separately. Care should be taken not to disclose to the abuser information that has been provided only by the victim.

<sup>1</sup> Ganley, A., & Schechter, S. (1996). Domestic Violence: A National Curriculum for Child Protective Services. Family Violence Prevention Fund.

## B. DV Screening Recommendations for Agencies

Screening for DV need not be time-consuming or cumbersome. It is recommended that all agencies identified in this guideline provide DV screening. Although these guidelines make a distinction between screening, assessment and services, these activities should be continuous and ongoing functions since violence could occur at any time while a family is receiving services.

1. **Law Enforcement Agencies:** Law enforcement plays a vital role in determining whether DV is present in some households. Law enforcement officers and DV advocates in Whatcom County have developed supplemental forms and DV risk questions that can be used to gather DV information at crime scenes. The forms and risk questions provide a fairly comprehensive overview of the scene and the role DV plays in the familial relationship. The DV risk questions provide information about the level of risk to the adult victim, abuser and children at the time of the law enforcement response. When domestic violence is indicated, law enforcement should also make a referral to domestic violence advocacy agencies.
2. **CPS:** Many families referred to CPS programs have DV concerns. With a study conducted on Washington State CPS cases<sup>2</sup> the researchers have estimated that 47% of the referrals accepted for CPS investigation have some indication of adult DV in the child's home. Routine and respectful DV screening is essential in identifying victims of abuse in order to provide appropriate, supportive services and community referrals. Screening also gives CPS field workers greater context and information about incidents of child maltreatment, allows the workers to evaluate if there are specific risks posed by the DV, and creates the opportunity to offer non-abusive parents protective and supportive services they might not otherwise have accessed. It is therefore, recommended that routine DV screening occur throughout DSHS/CA system services. When DV is documented in a CPS intake report, it is important to obtain information from law enforcement about past and current DV incidents. It is also important to consult with law enforcement about potential safety risks to social workers visiting the family and adult DV victims. When domestic violence is indicated, CPS should also make a referral to domestic violence advocacy agencies. Please see [Appendix F](#) for a copy of the Memorandum of Understanding (MOU) between DVSAS and DSHS/CA.
3. **Community DV Victim Advocacy Agencies:** Because victims of DV essentially self-screen themselves into community-based DV victim services agencies, additional screening to determine if there is DV in their lives is redundant. This guideline does not address formal procedures for these entities.

<sup>2</sup> English, D., Edleson, J. & Herrick, M. (2005). Domestic violence in one state's child protective caseload: A study of differential case dispositions and outcomes. *Children and Youth Services Review* 27(2005), 1183-1201.

Community-based domestic violence advocates should discuss with victims whether their children have been exposed to domestic violence, in order to assist them with helping their children with the effects of exposure and obtaining appropriate services for their children if/as needed. It may result in the need to report suspected child abuse; please refer to Mandated Reporting RCW 26.44.

4. **Batterers Intervention Programs (BIP):** DV offenders can self-screen themselves into BIP. Most of the time, however, they are mandated into a BIP by the criminal court, civil court or CPS system. It is important to conduct routine initial DV screening as offenders are seeking BIP services.

### C. CPS Intake Referral Guidelines in Domestic Violence Cases

1. Exposure to DV may be but does not necessarily constitute negligent treatment or maltreatment in and of itself.
2. **The person responsible and accountable for exposing children to DV is the abuser, not the victim.**
3. Referrals should be made to CPS Intake when there are allegations of “negligent treatment or maltreatment.” This means “an act or failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child’s health, welfare, or safety. When considering whether a clear and present danger exists, evidence of a parent’s substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of themselves (itself).” (RCW 26.44.020(15) effective 1/07).
4. Referrals to CPS Intake should be made in cases where there are allegations of “child abuse.” This is defined as sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child’s health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100.
5. Referrals to CPS Intake should be made in cases where there is a “risk of imminent harm.” This is defined as “the significant possibility or likelihood a child will suffer serious physical or emotional harm in the near future” (Children’s Administration Practices and Procedures Guide, Chapter 2000, Section 2200, B. Sufficiency Screen 4). In assessing risk of imminent harm, the overriding concern is a child’s immediate safety.

## **D. Suggested DV Screening Questions to Be Asked by CPS Intake and Other Agencies Intake**

Asking standard questions about DV at the time of agency referral provides a critical opportunity for the identification and disclosure of DV. Asking about DV allows CPS Intake to make more informed decisions about which reports to refer for investigation. It also creates a record of disclosure that can corroborate claims of abuse, even if the incident is not referred on for investigation. It is recommended that if the report is not accepted for CPS investigation, information about DV resources should be provided to the referent. Information gathered in response to DV screening questions should be documented in the CPS Intake report and other agencies' reports/referrals. The following DV screening questions can be easily and quickly incorporated into practice. It is recommended that CPS Intake as well as other responding agencies ask an initial DV screening question at the time of agency referral such as:

**“Do you or someone in the household have concerns that physical abuse or emotional abuse or violence is an issue?”**

If the answer is “no,” then the intake worker should note that in the report and continue with the intake questionnaire. If the answer is “yes”, then the intake worker should ask the following six questions to gather more information:

1. **Has anyone in the family been hurt or assaulted? If so, describe how.**
2. **Has anyone in the family made threats to hurt or kill another family member or him/herself? If so, please describe.**

If there are “yes” answers to questions 1 or 2 above, then ask:

3. **Has anyone been injured? If so, describe how.**
4. **Do you know if weapons have been used to threaten or to harm a family member?**
5. **Have the police ever been called to the house to stop assaults against adults or children?**
6. **How has the violence affected the children?**

## **E. Suggested DV Screening Questions to Ask Family Members**

It is recommended that CPS social workers ask family members about DV as a part of every investigation and family evaluation, regardless of the information about abuse that was gathered and passed on by the intake worker. Screening for DV should be ongoing since violence could occur at any point during family assessment or service delivery process. DV screening should be done separately with each individual in the family. The DV screening should consist of four questions. If there is a “yes” answer to any of the four questions, DV is indicated:

1. **Have you been hit, kicked, punched, or otherwise hurt by someone within the past year? If so, by whom?**
2. **Have you ever felt controlled or isolated by a current or past partner? If so, by whom?**
3. **Do you feel safe in your current relationship?**
4. **Is there a partner from a previous relationship who is making you feel unsafe now?**

## **F. Guidelines for Asking Questions and Supporting Victim Disclosures**

The DV screening questions should be preceded with a framing statement in order to introduce and normalize the questions. An example might be:

**“I have some questions that I ask everyone I work with. I’m going to ask you these questions now.”**

1. All efforts should be made to screen families in the client’s language of choice and cultural barriers should be identified during screening.
2. Ask behavioral questions that seek descriptions of behavior and not just the impact or meaning of behaviors.
3. Ask questions in a calm, matter-of-fact manner.
4. When responses are vague or confusing, briefly ask further questions for clarification.
5. Always thank the person for the information.
6. The effectiveness of this screening tool relies in part on the nature of the relationship between the questioner and the questioned.
7. It is important that victims be made to feel comfortable when disclosing sensitive information. Support and concern can be expressed to victims as follows:
  - a. **I believe you.**
  - b. **I am concerned about your safety and well-being.**
  - c. **I imagine this situation must be very difficult for you.**
  - d. **You are not alone.**

## II. ASSESSMENT OF DOMESTIC VIOLENCE

### A. Overview

When screening has identified that there are DV indications in a family, a comprehensive DV assessment of abusive behaviors and safety risks should follow. The purpose of DV assessment is to determine dangerousness of the DV patterns, the effects of DV on the family members, and what family strengths or protective factors exist. The information obtained from a DV assessment helps to guide the development of safety plans, case plans, and referrals to appropriate services and supports. The information may also be documented for DV assessments or parenting plan reports to the court. DV SAS' Post-Arrest Risk Assessment tool is provided as [Attachment G](#).

### B. Guidelines for Assessing and Interviewing Families about DV<sup>3</sup>

1. Determine social worker safety needs for the interview process and plan accordingly.
2. It is imperative that DV assessments be conducted without causing further risk of harm to DV victims and their children. When asking questions about DV, each family member should be interviewed separately. Ask whenever possible that children, friends and other relatives not be present during assessment interviews.
3. For CPS, interview family members, if possible, in the following order when DV is suspected or known. First interview adult victims (if this will cause risk to the child victims, begin with children). Next, interview children, and end by interviewing alleged DV abusers. When DV is revealed, immediately make a safety plan for the adult DV victim and their children. Best practice involves consultation/referral to domestic violence advocates for assistance/services.
4. Acknowledge concern for family members' safety if DV is disclosed during a session with other family members present. If there is no immediate safety concern, explore the disclosure in separate, individual sessions with family members.
5. DV assessment will differ depending on individual family circumstances. Social workers should determine if the adult caregiver has separated from the DV abuser, is currently leaving the relationship, or is staying with the DV abuser. Each of these situations presents unique risk and safety considerations which should be addressed in the assessment.
6. Consult with adult victims about their protective behaviors that may reduce the risk of harm to themselves and their children.
7. Give consideration to the confidence and/or concern that the adult victims may have regarding court orders, other court services, DSHS/CA services, and/or law enforcement services in keeping themselves and their children safe.

<sup>3</sup> Ganley, A. & Schechter, S. (1996). Domestic Violence: A National Curriculum for Children's Protective Services (CPS), Family Violence Prevention Fund. Manual available through Family Violence Prevention Fund [www.endabuse.org](http://www.endabuse.org).

8. DV assessment questions should ask information about:
  - a. The dangerous or lethality of DV behaviors to the adult victim, the children, the offender, and others;
  - b. The effect of DV behaviors on the adult victim and their children;
  - c. Existing protective factors that may mitigate the danger or risk of harm from the DV.

### C. Guidelines for Asking Assessment Questions with Adult DV Victims

1. Assess DV through routine, respectful, and direct inquiry.
2. Focus on the safety concerns to build an alliance with adult victims. Adult victims may be reluctant to talk with child protection workers because of fear of losing their children and of being punished by abusive partners. Also, some adult victims minimize or deny the violence as a way to survive the abuse.
3. Make stronger connections with adult victims by informing them that they do not deserve the abuse, that they and the children are in danger, and that you can help them identify ways to protect both themselves and their children. Support and concern can be expressed to victims as follows:
  - a. **The violence is not your fault and only (name of abusive partner) can choose to stop his abusive behavior.**
  - b. **No one deserves to be abused (hit, kicked, beaten, etc.).**
  - c. **There are options and resources available.**
4. Ask adult victims if they will feel endangered if the alleged abusive partners are interviewed. If social workers already know about DV through police, child protection and other agency reports, explain to adult victims that only information received from these sources will be shared with abusive partners. Inform adult victims how and when interviews with the abusers will occur. Ask the victims about possible consequences to them and their children of such interviews and plan for their safety. If it appears that interviews with alleged abusers will endanger adult victims or their children, delay those interviews until their safety is secured.
5. Inform adult victims about their confidentiality rights, as well as limits to those rights. Explain that information shared by adult victims will not be shared with suspected abusive partners unless a court requires disclosure. Give adult victims contact numbers for victim advocacy services where victims can discuss domestic violence issues confidentially and strategize with them how they will keep these referrals hidden from their abusers if discovery puts the victims at greater risk of harm. However, also explain to adult victims that social workers are required to protect children from harm and that victim disclosures will be used to plan for children's safety.

## **D. Questions when Assessing Adult DV Victims**

Through this line of careful questioning and listening, you can obtain information on the patterns of abusive behaviors, risks to the children and effects of DV on the children.

Ask the adult victim questions about the DV behaviors such as the following:

- Does your partner ever act jealous or possessive?**
- Prevented you from going to work/school/church?**
- Prevented you from seeing friends or family?**
- Have you ever felt afraid of your partner? In what ways?**
- Has your partner ever followed you?**
- Forced you to use alcohol or drugs?**
- Forced you to perform sexual acts that made you feel uncomfortable?**
- Behaved violently in public or with others?**
- Destroyed your family's possessions (e.g., clothes, photographs, furniture)?**
- Engaged in reckless behavior (e.g., driven too fast with you and the children in the car)?**
- Prevented you from calling 911 or other help?**
- Threatened to kill you, himself, your children or other family members?**
- Hurt your family pets?**
- Has your partner ever pushed, pulled, slapped, punched, kicked, or burned you?**
- Has your partner ever choked you?**
- Hurt you during pregnancy?**
- Threatened you, your children or other family members with a weapon?**
- Used a weapon on you, your, children, family or friends?**

Ask the adult victim questions to assess the level of risk to children such as the following:<sup>4</sup>

- Have you ever been afraid for the safety of your children?**
- Has your partner threatened to take children from your care?**
- Called, or threatened to call, a child protection agency?**
- Hurt you in front of the children?**
- Assaulted you while you were holding your children?**
- Forced your children to participate in or watch his abuse of you?**
- Hit your children with belts, straps or other objects?**
- Touched your children in a way that made you feel uncomfortable?**
- Threatened to hurt or kill your children?**

<sup>4</sup> Minnesota Dept of Human Services (2002): *Guidelines for Responding to Child Maltreatment and Domestic Violence*. Guidelines available through [www.dhs.state.mn.us](http://www.dhs.state.mn.us).

Ask the adult victim questions about the effects of DV on her children such as the following:

**Has your child been fearful of leaving you alone?**

**Has your child been having trouble eating or sleeping?**

**Is your child having problems in school or day care or in the neighborhood?**

**Has your child behaved in ways that remind you of your partner?**

**Has your child tried to protect you or stop the violence?**

**Has your child physically hurt you or other family members?**

**Has your child hurt themselves or pets?**

**Has your child seen or heard the violence towards you?**

The following questions provide additional information regarding the adult victim's history of seeking help and provide additional information for assessing dangerousness:

**Have you ever –**

**Told anyone about the abuse? What happened?**

**Seen a counselor/advocate? What happened?**

**Left home as a result of the abuse? Where did you go?**

**Did you take the children? If not, why not?**

**Called the police? What happened?**

**Pressed criminal charges? What happened?**

**Filed a protection order? What happened? Did your abuser respect the order?**

**Fought back? What happened?**

**General Questions:**

**How dangerous do you think your abuser is?**

**What do you think he is capable of?**

**Do you have any current injuries/health problems as a result of the abuse?**

**How do you feel about the violence?**

**What do you perceive to be your children's feelings about and reactions to the violence?**

**What do you believe would help keep you and your children safe?**

## **E. Guidelines for Interviewing Abusers**

1. Interview alleged abusers in a way that encourages them to disclose their own abusive conduct. Do not confront them with information provided by victims. While child protection workers can sometimes use police reports or other agency reports about DV in the interviews with abusers, do not use any information from victims' statements.
2. Do not try to force disclosure if identified abusers deny DV. Move on to other subjects. Angry confrontations often result in retaliation against child or adult victims. Workers do not need abusers' disclosures to confirm that DV occurred. Such confirmation comes from adult and child statements, worker observations and other agency reports.
3. Notify the appropriate authorities and adult victims if the abuser reveals information that indicates imminent danger or harm to known victims. This is a duty-to-warn situation. Notify supervisors and follow agency policies and procedures.
4. When asking DV assessment questions, interview DV abusers alone without any family members present.

## **F. Assessment Questions for the DV Abuser**

Assessing the dangerousness of abusers is important for safety planning. If you have information that the abuser is dangerous, consult with the supervisor before proceeding. DO NOT disclose information obtained from the DV victim or children to the abuser.

1. **What kinds of things do you expect from your partner?**
2. **What do you want to see for your children? How do you want them to grow up?**
3. **How do you and your partner handle conflicts?**
4. **What do you do when you don't get your way?**
5. **Have you ever been so angry that you wanted to physically hurt someone?**
6. **Have you ever been told that anger or violence is a problem for you? By whom?**
7. **Have you ever thrown/broken objects in front of your partner/children?**
8. **Have you ever stopped your partner from leaving the house or locked her out?**

Assess the abuser's view of his own behavior and of violence in general.

1. If he has used threats, what is his view of threats?  
Not serious: **"My partner knows I wouldn't really hurt her."**
2. Blames victim for his behavior: **"She pushed my buttons."**
3. Blames behavior on substance abuse: **"I was drunk."**
4. Blames jealousy which the abuser considers a sign of love
5. Minimizes the violence/believes violence is normal or acceptable

Assess abuser's awareness of how his/her behavior affects the children:

1. **Do your kids know about the fighting?**
2. **What are your thoughts about what the children are feeling about the hitting/pushing etc. they see?**
3. **How do you think the children have been affected by the fighting/hitting in your relationship with your partner?**

## **G. Assessing for DV Lethality**

When completing DV assessments it is important to be identifying lethality risks with abusive partners to determine the level of danger to victims, children and themselves. It is also important to determine if imminent interventions are needed. Standardized lethality assessment tools are available when assessing for lethality risks. **Jacqueline Campbell's Danger Assessment Tool** is provided in **Appendix H**. Lethality factors<sup>5</sup> are a pattern of behaviors and may include the following.

1. **Separation violence:** The most life-endangering violence occurs when the abuser believes his partner intends to leave or has left the relationship. Separation violence accounts for many emergency room visits and reported DV assaults.
2. **Lethal threats or fantasizes homicide or suicide:** Abusers who threaten to kill themselves, partners, children and other family members are extremely dangerous. The more the abuser has developed a fantasy or plan about who, how, when or where to kill someone, the more dangerous he may be.
3. **Abuser's history of strangulation, rape, or severe physical assault:** Evidence of these prior behaviors is very serious, and increases victim's risk of severe physical injury or homicide.

<sup>5</sup> Hart, B. (1988). Beyond a Duty to Warn. In K. Yllo and M. Bogard, *Feminist Perspectives on Wife Abuse*. Newbury Park, CA: Sage.

4. **Attitudes of extreme jealousy, complete ownership or absolute control of DV victim:** An abuser who obsesses about his partner, indicates an unwillingness or inability to live without his partner, or believes he is entitled to treat his partner any way he chooses, is likely to be very dangerous. Examples of these attitudes are in the following statements: “**You belong to me,**” “**If I can’t have you no one will,**” or “**Death before divorce.**”
5. **Escalation of risk-taking by abuser:** When the abuser begins to take more risks without regard to legal or social consequences such as stalking the victim at her workplace, stalking the children at school, or abusing the victim in public locations, it increases the risk of lethal assault.
6. **Abuser has access to firearms or other lethal weapons:** When an abuser possesses weapons and has used them or threatened to use them in the past, the potential for lethal assault is increased. The use of guns is a strong indicator of homicide potential. If the abuser has a history of arson, fire should be considered a lethal weapon.
7. **Abuser has manifested drug and/or alcohol abuse problem:** Committing acts of DV under the influence of drugs and alcohol can escalate the severity of the violence.
8. **Abuser has manifested issues of suicidal behavior, depression, paranoia or psychosis:** If the abuser has acute depression or mental illness and sees little hope for moving beyond his depression or mental illness he is at increased risk of committing suicide or homicide.
9. **DV Victim predictions of dangerousness:** Victim expresses fears that the abuser will kill her, her child, or others.
10. **Other risk factors:** The victim or children physically fight back; the victim and/or children are suicidal; and victim abuses substances and/or has mental health issues that reduce her ability to protect herself from the abuser.

## H. Interviewing the Child – Initial investigation – Law Enforcement and CPS

The goal of Whatcom County is for children to have as few interviews as possible and that they should be conducted by trained Law Enforcement or CPS (per Whatcom County Child Abuse Investigative Protocol).

An interview by others is strongly discouraged as they could inadvertently jeopardize the investigation. The community partner’s role should be to listen to the child if the child is confiding in them but not to elicit information. If a child discusses issues that rise to the level of a mandatory report the community partner should contact LE or CPS to conduct an interview of the child. This protocol does not preclude others from talking to children in a treatment setting once the investigation has been completed.

**Law Enforcement and/or CPS may wish to use the following guidelines and questions when conducting an interview.**

Use precautions when interviewing children, make sure the child is able to distinguish between the truth and a lie and spend a little time building rapport with the child. Questions should focus on the child's account/understanding of the violence, impact on the child, and the child's worries about personal safety. Refrain from asking leading questions whenever possible. Keep in mind that children who have chronically been exposed to domestic violence may have become desensitized to it and not see it as a problem.

Below are examples of questions used to solicit a child's account of what he/she saw/heard and how he/she perceives/understands the violence.

1. **What kinds of things do your parents fight about?**
2. **What happens when they fight?**
3. **How does the fighting usually start?**
4. **Who else was present?**
5. **What do you do when this is going on?** (e.g. stay in room, leave/hide; phone someone; run out/get help; ask them to stop; try to stop the fighting)
6. **What do you think about when this is happening?**
7. **Do you ever get hit/hurt when they are fighting?**
8. **Do you ever try to stop the fighting/hitting?**
9. **Have you talked to any other grown-ups about this problem?**
10. **Has anyone told you not to tell?**  
**If so, what did they tell you would happen if you did tell?**
11. **Do you worry about leaving your (mom, dad) home alone?**

### **III. SAFETY PLANNING**

With DV screening and assessment, information is provided on abusive behaviors, patterns of violence, and other risk factors. It is critical that a safety plan be developed with the adult victim and to help reduce the risk of harm to the victim and her children. It may not be appropriate for the adult victim to keep a written safety plan at home, because the information it contains may increase risk if the abuser becomes aware of the plan.

In addition to the risks abusers impose on victims, there are additional risks they face that can be just as salient yet “invisible.” These risks can result from community interventions that inadvertently put the victim at risk and/or be risks that are embedded within social norms and practices. Referred to as “social risks,” they should not be overlooked, as they also impact victim/child safety. See [Appendix I: Social Risks of Battered Women](#) for more information.

## A. Safety Planning Principles

In developing safety plans the following principles should be considered:

1. The best way to keep children safe in an environment with domestic violence is to keep their mother safe;
2. Trust and believe the adult victim’s opinion about whether or not it is safe for her and the children to leave the home;
3. Consider and respect the ramifications of decisions made by the adult victim on future CPS, custody or court proceedings;
4. Safety planning will differ depending on individual family circumstances. Social workers should ascertain if the adult victim has separated from the abuser, is currently leaving the relationship or is staying with the abuser. Each of these situations present unique risk and safety considerations and the safety plan will need to address these factors;
5. Safety planning strategies may need to shift when circumstances change or when victims gain new information;
6. Safety planning should address not only the risks created by the abuser’s behaviors, but should also address the circumstances in a victim’s life over which a victim has limited control. These circumstances, such as physical or mental health, finances, or legal interventions, all potentially impact the safety of the victim and her children.

## B. Safety Planning with Adults

It is important that safety plans be developed with all adult victims. See [Appendix J](#) for safety planning and additional resource tools for victims.

### 1. Value of safety planning

- a. Safety can oftentimes more effectively be achieved and maintained through careful planning than via an impulsive decision.
- b. Safety planning provides concrete information, procedures, steps, etc., a victim can take if and/or when she decides to leave.

- c. Safety planning empowers the victim. No longer is she only reacting to her abuser's actions; now she takes control over her decision via a plan and preparations. She now has choices.
- d. Safety planning creates a structure for developing a working partnership with the victim.
- e. Safety planning can also be seen as a tool to further assess risk.
- f. For CPS workers, safety planning acts as a good segue to DV community-based service providers, as they will continue this process with her.

## 2. Elements of an effective safety plan

- a. Strategies for what to do in an emergency situation, including:
  - 1) Identifying emergency exits;
  - 2) Identifying high-risk areas of the residence, to be avoided if violence is imminent (e.g. kitchen, garage);
  - 3) Identifying supportive persons to call and code words to use when contacting them;
  - 4) Teaching children what to do if violence is imminent.
- b. Strategies for leaving in such a way as to not need to return may include:
  - 1) Documents to take when leaving (e.g. protection order, children's birth certificates, school/immunization records, green card, etc.) that are copied and hidden in a safe place;
  - 2) Collecting and storing other important things to take when leaving (e.g. change of clothing for self, children; phone numbers, medication, etc.);
  - 3) Having money stashed somewhere accessible only to the victim;
  - 4) Identifying a safe location, unknown to abuser.
- c. Plans for staying safe at work and in public may include:
  - 1) Extending the protection order to the workplace and the children's schools/day care centers;
  - 2) Informing and enlisting the assistance of key personnel at these sites;
  - 3) Identifying areas and people in the community who would not preserve the victim's safety and therefore to be avoided if/whenever possible.
- d. A "safety net" of people who will both help and preserve the victim's safety.

- e. Protection orders:
  - 1) Protection orders are advisable in most situations but may not be sufficient in effective safety plans. Some abusers are not stopped by them, and they rely solely on outside agents to keep the victim safe. Problem solving is mental and emotional work that serves to empower the victim and strengthen her resolve. It typically takes time and work to leave a violent relationship;
  - 2) Protection orders need to be copied and given to all parties involved in protecting the family members: workplace, school personnel, and law enforcement;
  - 3) If the victim visits or moves out of county, copies should be made for law enforcement in those jurisdictions;
  - 4) “Important others” in the family’s life should be notified of the existence of protection order (e.g. relatives, neighbors, friends, landlords, etc.).

### 3. Guidelines to follow when assisting a victim to create a safety plan

- a. The safety plan is the victim’s. Therefore it should be tailored to the unique risk factors in her situation.
- b. The safety plan can be filled out by the victim with the Social Worker’s/ Advocate’s assistance. It may be copied but never specifically quoted in a court document, used as an attachment to a report, or shown/given to anyone who might either purposely or inadvertently allow it to end up in the hands of the abuser – then it becomes both useless and dangerous.
- c. The safety plan is a work in progress in that the victim can add to it/modify it as she learns more or her situation changes.
- d. If the victim is living with her abuser, she must be advised to keep her plan hidden and/or away from her residence.
- e. Discuss her plan for providing safety for her children and include this in the safety plan.
- f. Assist her in becoming as specific as she can be.
- g. Discuss a step-by-step plan of what she can do if another incident occurs and/or she decides to leave.
- h. Discuss how she will know if/when her plan is working or not working.
- i. Discuss options if her plan doesn’t work and what “Plan B” is, if it doesn’t.
- j. Discuss alternative plans if family cannot help, shelter is full, etc.
- k. Strategies need to be based on her actions, not based on his behaviors, over which she has no control and is powerless to change (i.e. her safety plan should not be: “hoping he will change” or having him get into treatment or stop drinking).

### C. Safety Planning with Children

It is important that adult victims develop and implement safety plans for/with their children. Code words can help children call for help. Childcare providers and school staff also need to be aware of the domestic violence and be prepared to implement safety measures when called for. When making safety plans, obtain information on what protective measures have been successful and what support the family could utilize by asking the following:<sup>6</sup>

1. **What have you tried/what has worked in the past to protect your children?**
2. **What do you need now to protect your children?**
3. **Do you feel that a shelter or a protection order would be helpful to your children?**
  - a. If yes, ask: **“Do you want to use these options now?”**
  - b. If no, ask: **“What other ideas do you have about ways to keep your children safe?”**  
(Such as their temporarily staying with relatives or friends)

## IV. SERVICE PLANNING

Service plans should be based on concerns and family strengths identified in the assessments. Service plans for children and their families must be flexible and be regularly updated so that they remain relevant and effective. Both safety plans and service plans should be developed with the adult victim to ensure that safe and effective services are provided to her, her children, and the abuser.

It is recommended that separate service plans be developed for the adult victim and the abuser.

### A. Service Plan Elements for the Abuser

Service plans may include:

1. Participation in a specialized Batterer Intervention Program (BIP);
2. Substance abuse treatment if the abuser is also actively abusing drugs and/or alcohol. It should precede other forms of treatment if:
  - a. Safety issues are satisfactorily dealt with/abated;
  - b. The drug problems interfere with the ability to effectively utilize other forms of help;
3. Following all conditions of court and probation;

<sup>6</sup> Ganley, A., & Schechter, S. (1996). Domestic Violence: A National Curriculum for Child Protective Services. Family Violence Prevention Fund.

4. Recommendations that the abuser:
  - a. Will not behave in a manner that is verbally, emotionally, sexually, or physically abusive toward his partner and/or children;
  - b. Will not involve the children in attempts to control his partner nor force them to witness or participate in other abusive behaviors;
  - c. Will be educated regarding the effects of DV on his partner and children by enrolling in and successfully completing a parenting class that specializes in helping abusers develop both the skills needed to parent traumatized children and the compassion to understand how his violent behavior has affected his children;
  - d. Will comply fully with visitation orders.

## **B. Service Plan Elements for the Adult Victim**

Service plans may include:

1. Empowerment counseling for the adult victim to increase protections for herself and her children;
2. Education with adult victim regarding the effects of DV on children;
3. Education and support to avoid the use of physical discipline with her children;
4. Safety skills building for adult victim and children;
5. Appropriate referrals to and collaboration with community service providers for the adult victim and the children, such as DV victim programs, substance abuse, mental health, economic and housing services, law enforcement, court orders and court based services.

## **C. Service Plan Elements for Children**

Comprehensive assessments of children exposed to DV should be conducted by professionals who are specifically trained to understand the impact of DV and child maltreatment on adults and children. Children who display the following should be referred for formal assessment of their service needs by a well-trained professional who is competent in understanding the dynamics of DV:

1. The child's emotional or physical distress is not getting better over time;
2. The child exhibits behavior problems that disrupt their relationships with parents, family members and others;
3. The child's behaviors cause problems at daycare, school or in their neighborhood or community.

## D. Inappropriate Service Plan Elements

1. Anger management unless it is imbedded within the larger BIP treatment.
2. Couples and/or family counseling (this includes being in the same group therapy sessions).
3. Visitation arrangements that endanger victim and/or children. It is critical that an initial assessment of the level of supervision required to ensure victim/children safety is conducted and provided to the Court/CPS prior to initiating the visitations. There should also be ongoing monitoring and re-assessment of the appropriateness of the level of supervision initially established. The dynamics of a domestic violence case can change, resulting in changes in victim/child safety. Reassessments that result in the need to modify the level of supervision needed to ensure victim/child safety should be immediately reported to CPS and the Court. **Please refer to the [Services chapter](#), pages 72-76 for a more detailed discussion about supervised visitation.**

# SERVICES

## **I. SERVICES FOR ADULT DOMESTIC VIOLENCE VICTIMS**

The primary goal of service planning with adult victims and their children is to promote enhanced protection for them and to address the impact of DV and other risk factors they may be facing. Referrals should be made to service providers that respect the individual family's differences and build on its strengths and who have expertise in working with DV issues. All service referrals should be consistent with victims' wishes. Every attempt possible should be made to ensure victims are provided culturally appropriate resources, referrals and services. Assistance should be provided to victims to develop and implement safety plans. Service plans should include separate goals for each family member. Adult victims and children should be offered services whether or not adult victims choose to remain with abusive partners.

See **Appendix B** for more detailed descriptions of the services described in this chapter, with corresponding contact information for service providers. Please be advised that services can change; contact the agencies for additional information and/or updates.

### **A. Crisis Intervention, Information and Referral**

WWU's Crime and Sexual Assault Support Services (CASA), DVSAS, Womenscare Shelter, and Lummi Victims of Crime all operate 24-hour help/crisis lines. These crisis lines often serve as the first point of access to shelter and other services, and also provide crisis counseling, safety planning, information, and referrals for victims and their friends or family members. Many professionals are also provided with information and consultation through the crisis lines. In addition to the DV-related 24-hour crisis lines, Northwest Youth Services offers a 24-hour hotline for at-risk teens, and Whatcom Counseling & Psychiatric Clinic responds to mental health emergency calls around the clock.

### **B. Emergency DV Shelters**

"Shelter" means a safe home or shelter home that provides temporary refuge and adequate food and clothing offered on a twenty-four hour, seven-day-per-week basis to victims and their children (WAC 388-61A0-25). However, current demand far exceeds capacity to serve those in need. Whatcom County has one confidential DV emergency shelter facility – Womenscare Shelter – specifically designed to house battered women and their children who are fleeing dangerous abusers. The location is kept confidential, and they have systems in place to protect the physical safety of residents and staff. The Lummi Victims of Crime Program also maintains a shelter for victims of domestic violence and sexual abuse, which is available for Lummi Tribal Members, other Native Americans, and eligible residents of the Lummi Reservation.

### C. Transitional Housing Programs

“Transitional housing” means a facility that provides housing and supportive services to homeless individuals or families for six months or up to two years and whose primary purpose is to enable homeless individuals or families to move into independent living and permanent housing (WAC 458-16-320). However, current demand exceeds capacity to serve those in need. One agency – Dorothy Place – operates transitional housing that is specifically designed to meet the needs of DV victims needing longer-term housing and support. They offer a variety of intensive advocacy services for the women and children they house for a minimum of six months and a maximum of two years. Three additional shelters in Whatcom County provide transitional housing for homeless women, many of whom are also DV victims: Lydia Place, Agape House, and New Way Ministries.

### D. Community Advocacy

DV advocates work in partnership with clients to identify and address a wide variety of client needs, including legal advocacy, escorts to court, economic assistance, access to medical care and mental health counseling, emotional support, and safety planning. Services are tailored to meet the individual client needs and continue as needed. “Advocate counselor” means a trained staff person who works in a domestic violence service and provides advocacy-based counseling and supportive temporary shelter services to clients (WAC 388-61A-0025). Advocates also provide safety planning services which focus on the immediate needs of victims and address the level or risk for danger.

### E. DV Support Groups

DV Support groups offered by Lummi Victims of Crime, Western Washington University’s Crime and Sexual Assault Services (CASAS), DVSAS and Womenscare Shelter break down barriers of isolation and provide a supportive atmosphere and a forum to discuss DV experiences. They provide an avenue to meet other clients with similar stories who may give new insights into others’ situations. Clients can participate in whatever way feels comfortable to them. Support groups are an opportunity to talk about needs, situations, and plans while in a safe place.

### F. Basic Needs Assistance

1. **Financial/Medical/Food Assistance:** A family leaving an abusive situation with little income or resources may be able to obtain financial help from DSHS/Community Services Office. Victims can apply through their local Community Service Office for the Temporary Assistance for Needy Families program, food benefits, medical assistance, and child care assistance. They may also apply for these services online at the shelter. For victims fleeing an abusive situation, the abuser’s income and resources may not have to be taken into account if they are not readily available. Disclosure of domestic abuse may exempt victims from participating in the collection of child sup-

port as well as employment-related activities of the WorkFirst program until the family achieves a safe living environment. The Family Support Specialist, a trained DV advocate, is available at the Community Service Office to provide support, information and referrals to domestic violence victims.

2. **Transportation services:** Some social service agencies such as Opportunity Council and DVSAS may provide bus coupons. Womencare Shelter provides unlimited bus passes and rides in certain situations to all residents. They also provide assistance with out-of-county transportation for women in high risk situations that need to leave the area.

3. **Health Services:** If the victim has urgent medical needs, she should be referred immediately to emergency medical services at St. Joseph's Hospital.

4. **Job training:** Victims benefit from employment service agencies that have an understanding of DV dynamics. Such services can help victims increase their confidence and employment skills and also help with workplace safety planning. Whatcom Community College offers this service through their "Turning Point" class.

## **G. Address Confidentiality Program (ACP)**

Since 1991 the goal of the Washington State Address Confidentiality Program (ACP) under RCW 49.24 is to help victims of domestic violence, sexual assault and stalking stay safe by keeping their new address confidential. Once a victim is enrolled in the ACP, there are only two exceptions to the State's requirement to maintain address confidentiality: by request of law enforcement or by court order.

The ACP will:

1. Provide a victim with a substitute mailing address and help her use it;
2. Forward first-class mail from the substitute address to the victim's actual address;
3. Help the victim get many state and local government services without revealing her actual address;
4. Help the victim register to vote or obtain a marriage license without having those records available to the public.

The eligibility requirements are to be a victim of domestic violence, sexual assault, and/or stalking who is a resident of the state of Washington; and to have recently moved or planning to move soon. Victims apply through one of the local victim advocacy agencies. The agencies offering this service in Whatcom County are Domestic Violence & Sexual Assault Services, Womencare Shelter, Lydia Place, and Dorothy Place.

While government agencies are required to keep the victim's address confidential, this same requirement does not apply to private companies. Victims will need to consider alternative ways to protect themselves when doing business with utilities, cable companies, insurance companies, etc. For more information see <http://www.secstate.wa.gov/acp/>.

## H. Protection Orders

Womencare Shelter and DVSAAS provide advocacy services to victims which includes assistance in filing for temporary or permanent orders for protection, information and referral to social service agencies, safety planning, education and preparation prior to court hearings, escorts to court and advocacy during and after court hearings. The Whatcom County Protection Order Office, located in the County Courthouse, has staff available to assist with filing paperwork for protection orders. Native Americans can receive assistance with protection orders and filing in Tribal Court from Lummi Victims of Crimes and the Nooksack Domestic Violence Advocacy Services. There is no fee for filing a protection order.

Two documents have been developed which provide information about protection orders in civil domestic violence cases. One is specific to the victim and the other, to the abuser. Please see [Appendix K: Information for Petitioners](#) and [Appendix L: Information for Respondents](#).

1. **Protection Order:** A protection order is a civil order as described by Washington State Law, RCW 26.50. Such orders are to protect people who are experiencing physical violence, threats of physical violence which create a fear of imminent harm, sexual assault or acts of stalking perpetrated by a family or household member. Although protection orders are civil orders, a violation of the restraint provisions of the order may result in the filing of criminal charges. The order can restrain the abusive family member from committing acts of harm, contacting the victim and or minor children, and from coming within a certain distance of or to the home, school, workplace, daycare, or other designated location. A temporary protection order can be obtained through District or Superior Court in Whatcom County. Native Americans and residents of the Nooksack and Lummi Indian Reservations may also obtain a protection order in Tribal Court. The petitioner's address can remain confidential during the process.
2. **Temporary Orders for Protection:** This civil order restrains the person who has been committing acts of violence from further acts of assault or threat. Application forms for such orders ask the person seeking the order to describe the most recent incident or threat of assault and/or DV, and to provide a history of such incidents. The respondent's address and birth date are also requested. A judge or commissioner will review the paperwork and decide whether or not to grant the order. A full hearing will be held about two weeks later, after which the court will grant or deny a full order for protection which can be effective for a year or more. During the temporary order period, the respondent is served with the petition and the temporary order, and provided with notice of the date set for the hearing on whether a full order should be issued.

3. **Full Orders for Protection:** At the full hearings, the court will ask both parties to talk under oath about the abuse or threats described in the petition. A domestic violence advocate can assist the petitioner in this process. At the conclusion of the hearing the court will decide whether to grant or deny the full order for protection, may be effective for up to a year or more. Any time prior to the expiration date of the order, the petitioner may return to court and request that the order be modified or terminated. The petitioner may request a renewal of the order a month before its expiration date.
4. **Other Orders that may be available for DV victims**
  - a. **No Contact Order (NCO):** This type of order is issued by a judge in criminal court in a criminal case involving DV. An arrest must have been made or charges filed against the abuser before a criminal no contact order is issued. When charges are pending, it is advisable to contact the court to ensure an NCO is issued. A victim can discuss the NCO with a Victim Witness Advocate or Domestic Violence Specialist through the City or County Prosecuting Attorney's Office.
  - b. **Restraining Order:** A restraining order may be included as a part of other legal proceedings, such as those concerning divorce, legal separation, or child custody cases. Restraining orders may not be necessary in some cases. In other cases, a restraining order may be issued along with a protection order.
  - c. **Order for Anti-harassment:** This special type of restraining order is available when there are persons involved that are not family members and do not have a current or past romantic relationship. Anti-harassment orders may be issued, for example, with stalking cases that do not involve physical violence or cases involving a continual course of conduct or pattern of behavior that is harassing. There is a fee.
  - d. **Sexual Assault Protection Order:** This order is available to victims of sexual assault and parallels the protection order (listed above in section H-1, 2, and 3). Advocates at DVSAS can assist victims with paper work. This order should never be used in place of a protection order.

## I. Legal Advocacy

Legal advocacy includes explanation of paperwork and court proceedings; support in the courtroom; assistance in procuring protection orders, restraining orders, sexual assault protection orders or anti-harassment orders; and referrals to other agencies which can provide legal information or services to the client. Legal advocates are available through Womenscare Shelter, DVSAS and Lummi Victims of Crime. No fees are charged for these services. **See Appendix M, the Domestic Violence Court Orders Grid, for additional information.**

## **J. Legal Representation**

Legal representation refers to providing civil legal assistance by an attorney to DV victims in family law cases. Such assistance may include advice on a variety of family law issues, drafting pleadings, providing procedural instructions, and helping clients prepare for various types of hearings. A staff attorney may become involved after receiving a client referral from a DV advocate and will then coordinate, as necessary with the advocacy staff. Current demand for such legal services, however, far exceeds capacity. The Lummi Victims of Crime Civil Legal Program maintains a staff Attorney and Legal Assistant for Lummi Tribal Members, other Native Americans, and eligible residents of the Lummi Reservation. The Northwest Justice Project provides specialized legal advice and brief assistance to DV victims and their families.

## **K. Parenting Groups**

Specialized DV parenting groups that support the victim and her children are offered through Catholic Community Services and Lydia Place. Groups may include topics such as the effect of violence on victims and their children, and effective non-violent discipline.

## **L. Mental Health**

DV victims may experience emotional trauma as a result of the violence they have experienced. Symptoms of emotional trauma vary by individual and are affected by environmental considerations including the current safety and stability of the victim and other family members and children. When emotional and/or psychological symptoms and concerns persist and interfere with a victim's ability to cope, referral to appropriate counseling/mental health services should be considered. Issues that may warrant evaluation, treatment and support include depression, anxiety, substance abuse, and difficulty parenting children. Post Traumatic Stress Disorder (PTSD) may affect some victims and may include the following symptoms: persistent frightening thoughts and memories of their ordeal, feeling emotionally numb, reliving the trauma in the form of nightmares and disturbing recollections, sleep problems, being easily startled, loss of interest in things formerly enjoyed, trouble feeling affectionate, and irritability. Reminders of the trauma may be very distressing and trigger symptoms.

A victim's involvement in counseling is not indicative of a capacity to function as an individual and parent children. Indeed many individuals and parents in the general population seek counseling and guidance for psychological issues and for parenting support. Some victims may have a mental health diagnosis independent of or existing prior to the domestic violence they have experienced. These conditions may be exacerbated by the exposure to violence. Referrals to mental health services, if not already in place, are appropriate to assess symptoms and develop an appropriate plan to help the victim regain or achieve emotional stability.

Individual, group and family therapy is available at various counseling practices, agencies and mental health centers throughout Whatcom County. Providers and agencies vary in their expertise specific to domestic violence when it co-occurs with a psychological or parenting concern. It is important to ask if the provider has expertise in working with issues of domestic violence in the context of providing mental health, counseling or parenting support services.

An individual who is experiencing an emergency mental health crisis should be connected with Whatcom County Triage Center for immediate assistance.

### **M. Substance Abuse Services**

Referrals for substance abuse assessment and treatment should be made when substance abuse is indicated. There are a myriad of certified substance abuse treatment providers but few of them specialize in domestic violence issues. These treatment providers should collaborate well with the other agencies serving the DV victim. A list of substance abuse treatment providers in the state of Washington can be obtained at the following website: <http://www1.dshs.wa.gov/dasa/services/certification/GB.shtml>

### **N. Services for Teen DV Victims**

DV-specific services for teens are still limited in Whatcom County. There are not many resources for teen victims of dating violence and even fewer for teen abusers. Teens are reluctant to report DV until the level of violence is severe and they benefit from services tailored to address their unique needs.

### **O. Services That Are Inappropriate in DV Cases**

Participation in services that increase potential risk to victims and their families are not recommended. Couples counseling is contra-indicated if the abuser has not engaged and successfully completed a BIP to address violent or abusive behavior toward a partner. Couples counseling, mediation, family group counseling, pastoral counseling and anger management programs for the abuser can increase the level of danger to the adult victim and children. During the initial assessment and safety plan stages, these services should not be considered. Any services that blame the victim and do not hold the abuser fully accountable for his abusive conduct and for changing that conduct may put the adult victim and children in danger, and therefore, should be avoided.

## II. SERVICES FOR ABUSERS

### A. Batterer Intervention Programs (BIP)<sup>7</sup>

1. **Purpose of BIPs:** BIPS are psycho-educational single-gender treatment programs designed to address the power and control dynamics of abusers. They are the most used and best-researched intervention for this population. Research is being conducted to continually assess various treatment modalities, such as cognitive-behavioral therapy, choice therapy, and Dialectic-Behavioral Therapy. The purpose of this research is to improve on successful treatment outcomes by identifying the most effective interventions for abusers. Referrals should be made only to BIP state certified programs. A BIP should comply with all aspects of Washington Administrative Code (WAC) 388-60 regarding domestic violence BIPs. The primary goal of a BIP is to protect the safety of adult victims and children, and assist the abuser to stop all tactics of control. A BIP defines DV as a pattern of coercive behaviors that includes physical, sexual, and psychological assaults, as well as economic coercion.
2. **The following are considerations for BIP providers:**<sup>8</sup> A BIP holds the abuser accountable for his abusive behavior and for changing that conduct. The BIP utilizes strategies so that the abuser does not blame the victim for the abuser's violence. The BIP also provides interventions to stop the use of abusive behaviors. The key components of BIP programs include:
  - a. Maintaining contact between BIP service providers and adult victims, whenever possible;
  - b. Following clear policies regarding victim confidentiality and safety, and providing this information to victims and/or their advocates;
  - c. Demonstrating an ability to work cooperatively with victim-advocacy programs as well as with courts, probation, DCFS, and other agencies. BIP services are most effective when they work as one part of the larger coordinated community response to DV;
  - d. Providing initial and ongoing assessment of the danger posed to the adult victim or children by the abuser and notifying the victim and appropriate authorities if the victim and/or children are in danger;

<sup>7</sup> Massachusetts Department of Social Services (2004). Accountability and Connection with Abusive Men: A New Child Protection Response to Increasing Family Safety. Family Violence Prevention Fund.

<sup>8</sup> Ganley, A. and Schechter, S. (1996). Domestic Violence: A National Curriculum For Child Protective Services. Family Violence Prevention Fund.

- e. Conducting an initial assessment to determine if there are significant factors that might impact the abuser's ability to benefit from treatment such as, organic impairments, severe mental health issues, chemical dependency issues, and motivation to change. The initial assessment should include notification to the victim that (a) the abuser has sought BIP services, and (b) the victim is entitled to make treatment recommendations and to review any information provided by the abuser for accuracy. If necessary, the BIP makes referrals to adjunct providers for additional evaluation and treatment. The BIP monitors the abuser's compliance with any other recommended forms of treatment, and verifies that the abuser is stable in those treatments prior to allowing him participate in the BIP;
  - f. Maintaining close collateral contact with adjunct treatment providers to ascertain their level of knowledge about DV. Any adjunct treatment must support the primary goal of victim safety by eschewing strategies that blame the victim for the abuser's violence;
  - g. Requiring a minimum of one year in treatment, including a minimum of 26 weekly group sessions. The BIP also cannot base satisfactory completion of the BIP solely on the abuser having attended a minimum number of sessions;
  - h. Having clear completion or termination criteria, which should include notification to the victims prior to completion or termination of treatment;
  - i. Having clear consequences for abuser non-compliance;
  - j. Communicating to the victims, courts, probation, and relevant agencies that the abuser is or is not holding himself accountable for any and all of his violence;
  - k. Assessments and recommendations should not be based solely on information provided by the abuser. The BIP service provider should contact the victim directly, if possible, to verify information provided by the abuser and should obtain whatever additional releases are necessary to confirm information provided by the abuser.
3. **BIP limitations:** A BIP may or may not be beneficial for some abusers. Obviously, the more motivated abusers are and the more they follow through with the BIP, the more likely they are to be successful. Additionally, the more abusers are held accountable for changing abusive behaviors by not only the BIP, but also the courts and other community agents, the greater the likelihood of follow through with the BIP. This means that BIP services are most effective when they are a part of the larger coordinated community response to DV. There is also some research to indicate that BIP services are most effective for younger abusers who are early in establishing their battering patterns.

#### 4. Questions to ask about the effectiveness of a BIP

a. **What are their policies and procedures concerning victim contact?**

There should be an attempt by the program to contact the DV victim by telephone. Contact guidelines should include: ensuring that the victim's contact with the BIP program is optional and confidential; the provider completes safety planning if requested; resource information for the victim and her children is given upon request; and clear information is given to the victim about the program's limitations.

b. **Does the program follow a specific education curriculum that addresses the abuser's abusive and controlling behaviors and his underlying belief systems that support his abuse of power and control?**

c. **Does the program have clear exit criteria?**

d. **Does the program have a specific component that addresses the impact of exposure to DV on children and addresses the abuser's parenting behaviors?**

While all State-certified BIPs in Washington are subject to the guidelines established in WAC 388-60, programs interpret those guidelines differently. Contact the DSHS DV Abuser Treatment Program Manager (see DSHS website [www.dshs.wa.gov](http://www.dshs.wa.gov)) with any questions or concerns regarding a specific BIP.

### B. Other Services for Abusers

1. **Individual psychotherapy:**<sup>9</sup> Psychotherapy should not be considered an appropriate substitute for participation in a BIP, except in cases where the abuser is too acutely impaired or disruptive to function in a group setting. Some abusers may have additional mental health issues that require psychotherapy, concurrent with their participation in a BIP.

Any individual psychotherapist working with an abuser should be familiar with the dynamics of battering relationships, and with safety planning for victims and safe behavior planning for abusers. Individual psychotherapists must be willing to obtain a release of information from their client to provide information to the appropriate entities involved in the case: DSHS/CA, the courts, other treatment agencies, and the victim. Training, experience, and understanding regarding DV vary widely among psychotherapists; therefore, it is prudent to ask a clinician some of the following questions:

a. **What's your understanding about why DV happens?**

b. **What specific training and/or experience have you had related to issues of DV?**

c. **How much responsibility should an abuser's partner take for the abuser's behavior? This question can assess mistaken belief that "it takes two to tango."**

<sup>9</sup> Massachusetts Department of Social Services (2004). Accountability and Connection With Abusive Men: A New Child Protection Response to Increasing Family Safety. Family Violence Prevention Fund.

- d. **How do you balance assisting a client in exploring his own issues related to past trauma while also not allowing him to use that as an excuse for his abusive behavior?**
  - e. **What are your procedures for obtaining release of information forms from DV abusers?**
2. **Chemical dependency treatment:**<sup>10</sup> For an abuser with substance abuse issues, it is important for the chemical dependency program staff to be knowledgeable about DV. Some chemical dependency programs use strategies that may inadvertently endanger the victim such as requiring family sessions, implying that the victim’s survival strategies are “enabling” the chemically affected person’s addiction, or indicating that either the victim’s or abuser’s chemical dependency causes the domestic violence. An appropriate chemical dependency program should also maintain close contact with the BIP.
3. **Parenting classes for abusers:**<sup>11</sup> Violence Intervention Professionals offers specialized parenting components that address parenting issues as they apply within the context of domestic violence. This is ideal. An abuser is most likely to benefit from participation in a parenting class when he has made progress with his underlying abuse issues. Without having made such progress, an abuser is likely to view his parenting as being above reproach. Therefore, it is unlikely that an abuser will make major parenting improvements without participation in a BIP, combined with experiences of structure, monitoring, and consequences. The parenting program provider for abusers should be knowledgeable about DV. The program should include information and activities that focus on:
- a. Supporting the parenting of the adult victim;
  - b. The abuser’s parental role in the family;
  - c. Understanding the difference between discipline and punishment;
  - d. Nonviolent means for changing children’s behaviors by using logical and natural consequences;
  - e. Child development information;
  - f. The effects of exposure to domestic violence on children;
  - g. How to be accountable to the children for his abusive behavior;
  - h. Communication skills, assertiveness, and expressing feelings appropriately.

<sup>10</sup> Ganley, A. and Schechter, S. (1996). Domestic Violence: A National Curriculum For Child Protective Services. Family Violence Prevention Fund.

<sup>11</sup> Bancroft, L. & Silverman, J. G. (2002). The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics. Thousand Oaks, CA: Sage Publications; and Bragg, H. (2003). Child Protection In Families Experiencing Domestic Violence. U.S. Department of Health and Human Services.

4. **Supervised visitation services:** In an effort to provide safety for the adult victim and children, the abuser's visits with the children can be restricted. For families open to DSHS/CA services or other court services, the abuser's access to children can be limited to supervised visitation or have a stipulation that the exchanges are supervised. Visits or exchanges may be ordered to occur in a DSHS/CA office, a public setting, a designated home or office, or in a visitation center.
5. **Offender Impact Panel:** This panel would cover the various consequences of choosing to use violence in one's relationships: e.g. fines, court costs, treatment costs, travel restrictions, housing restrictions, and job restrictions, and the loss of trust and respect of partners and children.

### C. Services Not Recommended

1. **Anger management:** Anger management is not an appropriate substitute for participation in a BIP. Most anger management programs are brief interventions (typically eight to sixteen hours) that do not address the underlying belief systems that support abusive behavior and entrenched patterns of abusive tactics. In addition, anger management programs do not typically contain protocols for victim contact and addressing victim safety and do not have procedures for ongoing lethality assessment.
2. **Victim Impact Panels (VIP):** VIPs were first developed for Driving Under Intoxication (DUI) offenders so that offenders would understand the impact of their criminal behavior on victims, families and friends. The VIP model does not translate well to cases involving intimate partner violence. VIPs are not an appropriate substitute for participation in a BIP. The importance of addressing the power and control dynamics of intimate partner violence is best accomplished in a BIP program that provides educational tools.
3. **Couples or family counseling:**<sup>12</sup> Traditional couples or family counseling should not be recommended when the battering continues or has recently ceased. Faith-based couples counseling and counseling by a pastor is not recommended. Couples counseling is based on the assumption that partners who possess equal amounts of power can negotiate a conflict. In abusive relationships, there is an unequal balance of power between the victim and abuser, as well as a fear of physical violence or coercive attacks when the abuser feels challenged. Couples counseling may be appropriate in the future when the victim feels that she has regained control over her life and the abuser has completed a BIP and demonstrates a commitment to stopping all violence and reducing other controlling tactics.

<sup>12</sup> Graham-Bermann, S. A. and Edleson, J. L. (eds.) (2001) Domestic Violence in the Lives of Children: The Future of Research, Intervention, and Social Policy. Washington, D.C.: American Psychological Association.

### III. SERVICES FOR CHILDREN

#### **A. Principles for Effective Services for Children**

Services should be based on the principle that the best way to help children is by helping the non-abusive parent. Safety for the child also needs to be a primary concern. Children who experience both maltreatment and exposure to DV may need a range of formal services and informal supports in order to heal from their traumatic experiences. In order to provide effective services, providers should be knowledgeable about DV, competent in dealing with DV dynamics, and culturally competent.

#### **B. Considerations in Making Referrals to Clinicians**

There are no current state requirements to certify mental health providers to provide specialized DV treatment for children. The following are considerations when referring children to mental health services:<sup>13</sup>

1. Counselors or therapists should have the following knowledge or skills:
  - a. Understanding of definitions of abuse, including coercion, power and control;
  - b. Understanding of the importance of victim safety and autonomy and how to support these goals;
  - c. Knowledge of potential lethality indicators;
  - d. Ability to help individual take steps to improve safety;
  - e. Knowledge of local DV resources;
  - f. Knowledge of basic legal options such as criminal charges and protection orders;
  - g. A concept of abuser accountability and how to safely encourage it;
  - h. An understanding of children's varying experiences and effects of exposure to DV;
  - i. Knowledge of children's protective factors that may decrease negative effects of exposure to DV;
  - j. Understanding how to screen for DV;
  - k. Knowledge and skills in how to safely and effectively respond to children and their parents;
  - l. Basic understanding of how cultural issues may affect a victim, abuser, children, and the community in dealing with DV;
  - m. Researching and using evidence-based interventions that have been found to be effective through scientifically controlled studies.

<sup>13</sup> Graham-Bermann, S. A. and Edleson, J. L. (eds.) (2001) Domestic Violence in the Lives of Children: The Future of Research, Intervention, and Social Policy. Washington, D.C.: American Psychological Association.

2. Mechanisms need to be developed to protect the confidentiality of children's mental health records from being shared with the abuser.
3. Interventions should include involving the victim parent in the child's counseling. The abusive parent typically tries to sabotage the victim parent's relationship with her children. The adult victim and children who have survived DV can benefit from support in strengthening their relationships. The victim parent can also benefit from learning to manage any of her children's negative behaviors that are associated with exposure to DV.
4. Interventions should identify children's resiliency factors or protective factors and strategies on how best to support these factors. For example, increasing the child's contact with supportive relatives or family members or friends may decrease the negative effects of DV exposures.<sup>14</sup>
5. Children may have a delay in reactions to domestic violence. Services need to be available whenever the child shows a need. Grief and loss issues should be identified and addressed as they arise.

### **C. Barriers to Providing Services for Children**

Numerous barriers prevent children and families from accessing supportive services, including:

1. Cost. Reduced or sliding scale fees for counseling are very limited for children who lack medical insurance;
2. Transportation;
3. Limited numbers of service providers who have the knowledge and skill in treating DV;
4. Limited availability of therapeutic services for infants and young children with earlier signs of trauma;
5. Limited services to teens;
6. Limited services in rural areas;
7. Limited culturally-specific services;
8. Limited services provided in other languages;
9. Victim parent has limited time and energy to get her children to appointments in the face of continued threats, harassment, and manipulation by the abuser;
10. Victim parent's fear that her children's need for services may be used against her by the abuser in court by portraying her as being an ineffective parent;

<sup>14</sup>Graham-Bermann, S. A. and Edleson, J. L. (eds.) (2001) Domestic Violence in the Lives of Children: The Future of Research, Intervention, and Social Policy. Washington, D.C.: American Psychological Association.

11. The abusive parent's ability to sabotage services by refusing to give permission for his children to participate in services, insisting on copies of service records, harassing the children and/or service providers, and interfering with means of payment for services;
12. The victim parent may have difficulty with employment due to appointments for children occurring during the workday.

#### D. Assessing Children Exposed to DV

Children's reactions to domestic violence vary greatly. Ideally every child exposed to DV should be assessed to determine the degree of trauma suffered and possible need for counseling.<sup>15</sup> Several factors can influence a child's response to trauma. These factors can be strengths or protective factors that can reduce their risk of problems from traumatic exposures. Or they can be risk factors that increase their risk of problems from traumatic exposures. These factors include the following:<sup>16</sup>

1. **Characteristics of the child:** child's age; developmental state; prior history of trauma exposures; personality style; intelligence; coping; their culturally based understanding of the trauma; and their individual strengths or resiliency skill;
2. **Characteristics of the environment:** immediate reactions and attitudes of those who are close to the child; the type and access to quality supports; the degree of safety afforded to the victim in the aftermath; the prevailing community attitudes and values; and the cultural and political constructions of gender, race, and sexual orientation;
3. **Characteristics of the traumatic events:** frequency and degree of the physical violence and abuse, the level of terror and humiliation inflicted by the abuser; the persistence of DV threat; and the child's physical and psychological proximity to the DV event(s).

#### E. Services for Children

1. Specialized counseling services for children exposed to DV. Counseling services should provide education and support concerning the dynamics of DV. When available, evidenced-based counseling interventions are preferable such as child-parent trauma therapy and Parent-Child Interaction Training.
2. Specialized support services for children exposed to DV. These services should be delivered by providers who are well trained in the dynamics of DV and who provide interventions that address effects of DV on children. Services can include advocacy and support groups.

<sup>15</sup> Jaffe, P. G., Baker (2004), L. L., and Cunningham, A. J. (eds.), *Protecting Children from Domestic Violence: Strategies for Community Intervention*, New York NY: The Guilford Press.

<sup>16</sup> Carlson, E. B., Furby, L., Armstrong, J. & Shales, J. (1997). "A Conceptual Framework for the Long-Term Psychological Effects of Traumatic Childhood Abuse." *Child Maltreatment*, 2(3): 272-295.

3. Mentoring and community-based enrichment programs. One study found that only 35-45% of the children exposed to DV had psychological symptoms that required professional counseling. This result indicates that 55-65% of such children may not need immediate formal counseling. Due to the dynamics in violent families, however, virtually all children exposed to DV would benefit from informal supports like mentoring and community-based enrichment programs. Resiliency is promoted in children by increasing contact with positive and caring adults through informal community supports such as school and after school programs, faith-based groups including Rebound, Big Brothers and Big Sisters mentoring programs, and parks and recreation programs.

## F. Visitation Arrangements

Adult victims may need support and guidance in identifying issues and making arrangements for their children to visit with the abusive parent. Abusers need careful guidance in developing parenting skills after stopping abusive behaviors and supervised visits can be key to this. Visitation arrangements with abusive parents must be carefully planned and evaluated, bearing in mind the physical, mental, and emotional safety of the child and the non-offending parent. Visitation arrangements generally fall within the following ranges of restriction:<sup>17</sup>

1. Informal and non-restrictive: Liberal access. The victim parent is safe to pick up/drop off the child;
2. Formal and somewhat restrictive: A friend or family member provides supervision and there are some specific time and behavior constraints;
3. Professional and highly restrictive: There is a trained professional supervisor and very specific behavior guidelines and safety protocols.

Service providers should be knowledgeable about the challenges and benefits of each of these options in order to effectively assist the victim parent in safety planning for visitation.

## G. Supervised Visitation<sup>18</sup>

1. In an effort to provide safety for the victim parent and children, visitation with the children by the abuser can be restricted. For families open to DSHS/CA services or other court services, the abuser's access to children can be limited to supervised visitation or that the exchanges are supervised. Visits or exchanges may be ordered to occur in a DSHS/CA office, a public setting, a designated home or office, or in a visitation center.

<sup>17</sup> Saunders, D. G. (1998). Child Custody and Visitation Decisions in Domestic Violence Cases: Legal Trends, Research Findings, and Recommendations, National Center on Domestic Violence, PCADV/NRCDV, summary available [www.vawnet.org](http://www.vawnet.org).

<sup>18</sup> Bancroft, L. & Silverman, J. G. (2002). The Batterer as Parent: Addressing the Impact of Domestic Violence on Family Dynamics. Thousand Oaks, CA: Sage Publications.

2. When DV is present, appointed supervisors must fully understand the safety risks to the victim parent including stalking, harassment, verbal and/or physical assault, and child abduction.
3. Supervisors should have clear behavior expectations for the abuser parent that are thoroughly explained and agreed to in writing by the abuser, and they should know how to recognize and intervene to stop manipulative tactics that might cause emotional, mental, or physical harm to the children or the victim parent. Such tactics can include, but are not limited to:
  - a. Sending messages to the victim parent through the child via gifts, food, promises, or threats; including the gift of a cell phone as a way to trace the child and non-offending parent;
  - b. Soliciting the child to be his confidant. Asking the child to provide information about the victim parent or asking the child to take sides against the victim parent;
  - c. Refusing to pay for services;
  - d. Telling the child that CPS/court involvement is the victim parent's fault;
  - e. Asking for documentation from the provider stating how "good" the visits are;
  - f. Persistently pushing boundaries or bending rules;
  - g. Non-compliance with or persistent challenges to scheduled visit or exchange times;
  - h. Ongoing coercion and manipulation by using the court. Examples include: making repeated requests for changes in service providers; asking for changes in the length and frequency of visits; making frequent attempts to modify orders regardless of child's wishes or comfort.
4. Interventions by the visitation /exchange supervisor should range from re-direction to visit termination to service suspension and finally to service termination. Service termination should be investigated and considered before appointing a new provider.

#### **H. Criteria for Ordering Supervised Visitation Should Include the Following Considerations**

1. The level and intensity of violence or stalking behavior. A lethality assessment may be appropriate.
2. The immediate safety needs and concerns of the victim parent, whether the victim parent feels physically safe and/or if there are concerns expressed about abduction, neglect, physical abuse, and/or active substance abuse.
3. The age and developmental stage of child; whether the child can keep from disclosing a confidential address or other information and is able to protect him or herself from harm.

4. The housing and financial ability of victim parent. If the victim parent is in a shelter, visitation must occur in a safe place and access to safe and affordable transportation is important.
5. The child's reaction to his or her exposure to the violence. Counseling or therapeutic visitation may be necessary before further visitation is considered.
6. The abuser's level of accountability for actions including compliance or non-compliance with other court orders or conditions of orders, such as participation in a BIP engaging in substance abuse treatment, taking parenting classes, and cooperating with court ordered mental health evaluations.

#### **I. Criteria for Selecting Supervised Visitation Providers Should Include the Following Considerations**

1. Extent of training and experience in the power and control dynamics of DV, the impact of DV on children, and battering tactics.
2. Security policies and procedures, including steps taken to assure the safety of the victim parent before, during, and after service is provided, whether the provider has an in-depth intake process to determine types and level of risk, and whether there is a physical security protocol.
3. Criteria for case acceptance, rejection or termination.
4. Locations and context of services including whether services are provided on or off site, and whether supervision is one-on-one or provided to visiting parents as a group.
5. Language capacity and cultural competency.
6. Finally, it must be understood that battering tactics often include efforts to gain custody of children by alleging child abuse and neglect, substance abuse, and unfit parenting. Most children are apprehensive about visitation and are torn, wanting to maintain contact with both parents. However, they feel powerless about visitation arrangements. Children's wishes about visitation should be considered. Children should not be forced to visit an abusive parent, and the children's desire to avoid visitation should not reflect negatively on the victim parent.

#### **J. Questions for Interviewing Potential Supervised Visitation Providers<sup>19</sup>**

In considering potential supervised visitation providers, it may be helpful to ask some of the following questions to assess the provider's understanding of and experience with DV.

<sup>19</sup> Bancroft, L. & Silverman, J. (2002). *The Batterer As Parent: Addressing the Impact of Domestic Violence on Family Dynamics*. Thousand Oaks, CA: Sage Publications.

1. **What training have you had on DV abusers as parents? What sorts of behaviors from an abuser in a supervised visitation setting might be detrimental to a child?** These questions should allow you to determine whether or not a provider is aware of the manipulative behaviors that an abuser may use.
2. **What is your policy on parents bringing gifts for children during visitation? How do you ensure that gifts or other items (such as books to read), are appropriate, safe, and do not contain any possible hidden messages?** Gift giving should be limited to specific occasions and pre-approved by the staff and the victim parent.
3. **How do you deal with parents who want to whisper or pass notes to their children? How do you ensure that all communication is monitored?** Some abusers will utilize any opportunity, however brief, to make an inappropriate blaming or manipulative comment.
4. **What steps do you take to ensure that a parent and child are never out of visual range and/or earshot?** The best defense against the type of inappropriate communication described above is to not provide the opportunity for it to happen.
5. **When you write visitation reports, what sort of information do you document?** Reports to courts by supervised visitation centers should emphasize that an abuser's level of risk to children and any possible lessening of that risk cannot be measured or evaluated during supervised visits. As such, centers should not involve themselves in making recommendations to the court regarding future contact.
6. **Who is responsible for paying the cost of supervision?** Supervised visitation centers should have a policy that the abusing parent is to pay the full cost of supervision unless the court requires otherwise. This policy is important to avoid adding financial stress to the custodial home. This also sends clear messages to all parties that the abusive person has caused the need for supervision and has the responsibility to pay for it.

#### **K. Services That Are NOT Appropriate for Children and Their Families in DV Cases**

In initial stages of case planning, the following activities/services are not recommended until further risk assessment has been completed:

1. Couples or family counseling including faith-based couples counseling;
2. Court or divorce mediation;
3. Visitation arrangements that endanger the victim and children or are in conflict with a restraining or custody order;
4. Anger management classes.

## REVIEW AND OVERSIGHT

The Leadership Team of the Whatcom County CPS/DV/Courts Protocol Committee is responsible for the overall development and implementation of the Whatcom County Domestic Violence Coordinated Response Protocol. The Leadership Team's work will reflect a multi-disciplinary commitment to effective communication/collaboration, to improve both safety for victims of domestic violence and their children, and holding abusers accountable. This includes the following:

1. Convene Leadership Team meetings as needed;
2. Review/approve drafts of the protocol as it develops; ensure expert review before final approval;
3. Provide recommendations regarding what additional constituencies / agencies / administrators should be informed of/review and provide input to pertinent portions of (or the entire) Protocol; ensure these constituencies are involved/informed;
4. Review the recommendations made by the sub-committees; make decisions about their implementation;
5. Review and approve the recommendations for changes to the Protocol once approved, and ensure their implementation;
6. When the mechanism for collecting data is selected, ensure the facilitation thereof from each agency involved;
7. Arrange for and support interdisciplinary trainings;
8. Respond to systems level concerns/issues and recommend revisions to the Protocol as needed;
9. Provide oversight to implementation compliance monitoring;
10. Identify changes in regulations/laws needed at the state/federal level that would enhance victim/child protection and/or abuser accountability and advocate for them where appropriate within ethical and professional guidelines;
11. Pursue funding opportunities that would enhance communitywide response / interdisciplinary collaboration;
12. Present the finalized Domestic Violence Coordinated Response Protocol to the Citizenry for their information.

When disagreements arise between participating agencies regarding case-specific and/or systems level issues, it is recommended the agencies seek to meet and resolve differences at the lowest possible level: to seek common ground and work towards solutions that prioritize what is in the best interest of the family.

The Leadership Team commits to serving in an advisory capacity in this process, providing education, information, and guidance as needed/appropriate. The Leadership Team offers, therefore, a forum for parties to this protocol to discuss issues that are in need of further discussion and/or await resolution.

Additionally should the need arise for legislative advocacy at the State level regarding matters related to this protocol, the Leadership Team will provide this function.

## MEASURING OUTCOMES

The successful implementation of this protocol will be reflected in the achievement of the mission and goals adopted herein: increased safety of adult victims and children and increased accountability of abusers achieved via enhanced interagency coordination.

Guidance was provided to the Leadership Team regarding developing a process for measuring outcomes. The recommendations below were provided. However, the Leadership Team recognizes that these recommendations are at this time not achievable, for the reasons outlined in Section II – Barriers.

The Leadership Team continues to be committed to implementing a data collection/ analysis plan that will successfully measure our goals. However it is yet to be determined how best to accomplish this important objective in a way that is achievable and effective.

### I. RECOMMENDATIONS

Whatcom County’s participating agencies should create a data collection system to track efforts and determine their effectiveness. This data collection system, or database, would need to be managed through the use of a server. All participating agencies would also need to both agree on the specific data to be collected, and agree to access and utilize this data on a routine basis.

This database would provide an informational system for clients and participating agencies, to both provide information about the characteristics of the populations being served and to provide transparency about the types of interventions that work/don’t work, and for whom. This database would also identify the layered connections and causal sequencing between service providers, including their strengths, limitations, and needs. Thus it would provide transparency about potential gaps in services and/or problems with follow through, in this community’s ongoing effort to provide a reliable safety net of coordinated services for victims and accountability for abusers.

Start-up would require software and data entry capacity for each agency, and a secure server located somewhere and with someone to manage it.

#### **A. Create a Database and Enter Every Client Described by this Protocol Using a Confidential ID Code**

1. Every participating agency would be responsible for data entering “events” created by every client into this central database using the same ID code. “Events” refers to every time any member of the family comes into contact with any of the participating agencies. Examples include: an arrest; a court hearing; a victim accessing services at one of the non-profit agencies; CPS assigning a referral; a meeting between the probation officer and the abuser; etc.

2. Every participating agency would be responsible for checking the database for every client with whom they interact, to be up-to-date on each client's history/activity with other participating agencies. This ensures that clients do not fall through the cracks and that agencies are fully aware of client needs and circumstances.

## **B. Data to Be Collected**

1. The following demographics: age; gender; social/familiar/cultural ties; English language proficiency; tribal status; capacity for financial independence (via housing, a way of earning an income, etc.) The purpose of collecting this data is to ascertain whether /if some interventions are more/less effective with some groups but not others, in order to quickly determine whether the protocol is achieving its goals across all demographic groups.
2. Event(s) that brings the client to the participating agency's attention and that agency's services provided.

## **II. BARRIERS**

Several serious barriers exist that would need to be addressed and overcome in setting up this communitywide database. They include:

1. Confidentiality restrictions of each participating agency;
2. Concerns about client privacy and victim safety;
3. Cautions about using the data inappropriately – having the data replace doing a comprehensive assessment based on each client's personal situation, hence creating the potential for providing services that don't meet client needs or worse;
4. The significant finances required to purchase a server and develop, implement, and oversee such a database;
5. The significant impact on staff time required for data entry/monitoring for each participating agency.